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Wednesday 4 October 2006

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Mercredi 4 octobre 2006

Standing committee on government agencies

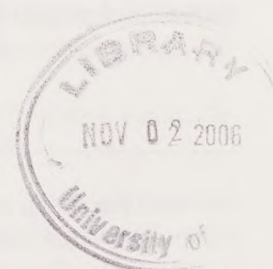
Agency Review:
Liquor Control Board of Ontario

Comité permanent des organismes gouvernementaux

Examen des organismes
gouvernementaux :
Régie des alcools de l'Ontario

Chair: Tim Hudak
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

Wednesday 4 October 2006

Mercredi 4 octobre 2006

The committee met at 1004 in room 151.

ELECTION OF VICE-CHAIR

The Chair (Mr. Tim Hudak): Good morning, members of the committee. Welcome to the regular meeting of the standing committee on government agencies, Wednesday, October 4, 2006, a special day today for a number of reasons.

First, I want to welcome Ms. Cheri DiNovo, the new member for Parkdale–High Park, to the committee. Welcome. In fact, she is off to a very strong and impressive start, because Mr. Bisson shared with me the other day that he has opened up the position of Vice-Chair on this committee. So I will do this formally.

Honourable members, may I have the names for the election of a Vice-Chair, given Mr. Bisson will no longer be serving as Vice-Chair of this particular committee?

Mr. Gilles Bisson (Timmins–James Bay): I would move Madam DiNovo. I'll try, anyway, just to get the discussion going.

Ms. Monique M. Smith (Nipissing): You can't. I move that Ms. DiNovo be named Vice-Chair of the committee.

The Chair: Ms. Smith moves that Ms. DiNovo become the Vice-Chair of the standing committee. Are there any other nominations? Seeing none, I declare nominations closed.

Ms. DiNovo, congratulations.

Ms. Cheri DiNovo (Parkdale–High Park): Thank you very much.

The Chair: She is now the Vice-Chair of the standing committee, muscling aside veteran Gilles Bisson in a matter of two weeks' time.

Mr. Bisson: Damn. I've been muscled by this woman twice this week.

The Chair: Exactly.

APPOINTMENT OF SUBCOMMITTEE

The Chair: That means we also need to appoint a subcommittee on committee business. Mr. Bisson had formerly served on the subcommittee. I don't have a particular motion.

Ms. Smith: I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair or at the request of any member thereof

to consider and report to the committee on the business of the committee;

That the subcommittee be composed of the following members: the Chair as Chair, Mr. Parsons, Mr. Tascona, and Ms. DiNovo; and

That the presence of all members of the subcommittee is necessary to constitute a meeting.

I was going to throw your name in, Laurie, but I thought that might offend somebody.

The Chair: The motion is on the floor. Any discussion on the subcommittee motion? Seeing no discussion, all in favour? Opposed, if any? It is carried.

Ms. DiNovo, welcome to the subcommittee. The subcommittee does have a rite of initiation, of which we will spare you the details at this point in time, just to forewarn you. I'm sure your colleagues have told you all about it. If not, be prepared.

Any opening comments, by the way?

Ms. DiNovo: None. It's a delight. I look forward to this work, and thank you, Gilles.

The Chair: Outstanding.

SUBCOMMITTEE REPORT

The Chair: The third item of business is the report of the subcommittee on committee business dated September 28, 2006. Members should have that before them.

Ms. Smith: I move adoption of the subcommittee report.

The Chair: Ms. Smith moves the adoption of the subcommittee report on government agencies of September 28, 2006.

There are no selections of the official opposition party on that. The third party has Suzanne Gilbert, intended appointment to the Child and Family Services Review Board/Custody Review Board. The government has no selections.

Any comment on this? Any debate? Seeing none, all in favour? Opposed, if any? It is carried.

AGENCY REVIEW

LIQUOR CONTROL BOARD OF ONTARIO

The Chair: Having dispensed with the routine work and, of course, welcoming our new Vice-Chair to her position, I will now proceed with item 4 on the agenda, which is report writing on agency review.

This committee has not completed an agency review, I think, since at least about 10 years ago, so we're treading on relatively new or renewed territory. The subcommittee did discuss format before. We're not bound by a motion or anything on how we'll move forward, but what I'm going to suggest as Chair is that we begin with the LCBO and work through the LCBO report until we have completed that report. Then we will go to the Ontario Lottery and Gaming Corp., and Hydro One will be our third.

I don't anticipate getting through all three today. I think we'll be fortunate if we get through one. We'll just schedule other meetings as time comes forward to complete these reports. I think, Madam Clerk, we have until the end of November to submit the reports to the Legislative Assembly of Ontario.

1010

I want to thank Carrie and Larry—meet Cheri, by the way. Carrie and Larry have been working very hard on these reports, with input from the presenters and input from committee members, directly and through their questions, to come up with this report that we have before us today. I'm going to have Carrie or Larry summarize each section, and then, when we get to the boxed area which has a suggested recommendation, we'll enter into discussion about that area.

My goal as Chair is to try to come up with a report that is a consensus report of all members of the committee. That may or may not be the reality—we may have a minority report; we may not—but that's what I intend to try to achieve at the end of the day. So, again, I'll have the research staff describe each section, and then we'll stop the discussion when we hit one of the recommendations. You'll see on page 3 the first one: "Implement a deposit-return system for all LCBO containers."

Are we okay with the procedure, then, folks, and we go until noon? I don't have any other business on the agenda today. Okay. So we will begin. I think we can dispense with the introduction, which is pretty basic, about who appeared before the committee, and proceed with issues at the bottom of page 1 on the LCBO report.

Ms. Smith: Just so I'm clear, this is just a draft of the issues, right? I mean, we have no note or evidence that was put forward by the LCBO. This seems to be just mostly criticisms and presentations by others. So the entire morning session seems to have evaporated, and I'm hoping that the next draft will have an outline of what the LCBO did present and some of the more positive aspects of what they're doing. Some of it's incorporated in it, but when you start off with, "The LCBO has been criticized," as your first substantive paragraph, it shows a certain tone that I don't think this committee necessarily wants to adopt. So I hope we would have a more fulsome brief at the beginning.

The Chair: The subcommittee had decided that we would do a narrow focus; instead of just doing a repeat of everything that we heard, to focus on specific issues and give advice back to the assembly and I guess then, indirectly, to the ministers responsible for the salient issues.

You can see with the LCBO that what the subcommittee decided we would concentrate on was the deposit return that the Environmental Commissioner had brought forward; agency stores, domestic production and social responsibility tend to be the ones that had the greatest deal of discussion. So it's not meant to be a comprehensive review.

As I say, we heard from the LCBO and these groups, and here are the areas where the committee had some recommendations. This was, again, done through the subcommittee to determine those areas that we would concentrate on in this report.

Ms. Smith: But the report as it now stands just seems to be more or less a litany of the recommendations that various presenters made. There's no real evidence of what the LCBO put forward in the beginning. So I would just ask that, in our introduction and beginning of the report, we actually outline some of the things that they discussed before we get into some of the recommendations.

Mr. Bisson: I hear what you're saying, Madam Smith. I see both arguments, actually. If you want to flesh it out a bit more, that's fine, but it sets out that there has been criticism in regard to not having recycling. Research—I look on page 2—basically says, "and this is what the LCBO said about that," and what they maintain as the reasons as laid out in the report.

I think the important part of this at the end is what we recommend as a committee. So I see that as, "Here are the arguments made by the presenter; here's what the agency said in response to that," and the committee is then going to have to deal with what we want to recommend to the Legislature as a result of what we heard. We may recommend nothing; we may recommend something. So I don't know how you get around not giving the opportunity in the report to reflect what people said. I agree with you that we have to also reflect what the LCBO said, but it seems to me that that's being done.

The Chair: Any further discussion?

Ms. Smith: I think we have a different philosophy on report writing, and I think it would better reflect what happened at the committee if we did have some kind of introductory comments about the LCBO.

The Chair: Okay. Let's proceed as I had indicated. I'm going to work with the front bench here to try and find a way to address the issue. They've suggested perhaps we could have a stand-alone section that summarizes the LCBO's points that would be part of our report but not part of our recommendations per se.

Mr. Bisson: —change the word "criticize" to something else if that's an issue. There's an easier way to do it.

The Chair: Aside from addressing the particular recommendations that the committee is going to make, I was hoping to try to avoid some of the nitpicking on language. If we need to, we can.

Let's proceed with getting to the recommendations of the committee. While we're doing that, we'll try to come up with some suggestions to address Ms. Smith's point,

which could include a summary of the LCBO presentation at the beginning of our report, as part of the introduction.

Ms. Smith: At the risk of being argumentative—I'm not being argumentative—can I just ask, then, that if we have language changes in the body, we maybe get those to the researcher, and in the next draft we could do some “track changes” so that others could see what we've recommended as opposed to debating every word along the way.

The Chair: Sure. That sounds good. We'll send them through the clerk, and the clerk will make sure the researchers get them. I appreciate that point. That will help us address those, if some members have concerns over a specific use of language or context, as opposed to debating them right here.

Carrie, are you going to start? Larry?

Ms. Carrie Hull: I'll start.

The Chair: We'll move forward with “Issues: Recycling, bottle return and Tetra Paks.”

Ms. Hull: I'm primarily looking at pages 2 and 3 right now. As we've just discussed, the LCBO has been criticized for its failure to implement a bottle return system. This is where consumers pay a small deposit for their purchase and then receive the rebate when they return the empty, just as occurs at the Beer Store right now. The LCBO has consistently argued, and it did argue the day they were here, that it would be impractical to implement such a program. In particular, many of its suppliers are foreign and they would not be able to take advantage of the returned bottles anyway. The LCBO has also argued that it has a bottle recovery rate of 64%, which is comparable to the rate that British Columbia attains, even though it does have a bottle return program. In other words, the LCBO is saying that it gets the same results as British Columbia does with its bottle return program. So the LCBO argues that it should still use the municipal blue box program.

It's also introduced alternative packaging, such as the aseptic containers, which are also called Tetra Paks. These packages, the LCBO argues, are environmentally friendly, much lighter than the glass bottles and are reducing the burden on municipal recycling programs by getting these heavy bottles out of the system.

We saw Mr. Miller, the Environmental Commissioner, make a presentation that day. He has long argued that the LCBO should implement a bottle return program. He's also somewhat concerned about the use of Tetra Paks.

I don't know if you recall, but we had a PowerPoint presentation that day, and on page 2—I'm looking at this “hierarchy of recycling” diagram—according to Mr. Miller, a system that can return and refill the most containers practical is the ideal recycling system. As we go down this hierarchy, there are less recommended forms of recycling. The second-best system is one where a cleaned container, the bottle in this case, is remade into a new container, say, the glass is remade into another glass container. Third in this system is where the material is used as something else. Typically, it can be used as

insulation or it can be used to help build roads. This is sometimes called down-cycling, because it's argued that the material is used for something that is inferior to what the original container was. Lastly is when the material is just lost to landfill—if it hasn't been able to be reused at all through our recycling program.

If we turn to page 3 now, according to the Environmental Commissioner, the LCBO's glass recycling system does not refill any bottles, as we know; 20% of the LCBO's glass bottles are remade into a similar container; approximately just less than 48% are down-cycled, and that means, as I said, they're used in something like landfill or aggregate; and lastly, 32% are lost to landfill.

Similarly, on the right-hand side, we can also see that the Tetra Pak numbers are fairly low on the hierarchy: 75% are lost to landfill, and between 13% to 25%, according to the Environmental Commissioner, are recovered and down-cycled or used in an inferior form of product.

The Environmental Commissioner responds to the LCBO's claim that it has a glass recovery rate of 64% by saying that, yes, that might be true, but that 64% is on the low part of this hierarchy. It's at the bottom half of the table, in other words. Similarly for the Tetra Paks, none of the Tetra Paks are at the top part of the hierarchy, as this table shows.

1020

He's also interjected some comments into the environmental merits of the Tetra Pak. He said that his office is basically undecided on this issue. He said that there's not very much research and that they don't have an opinion on whether Tetra Paks are indeed environmentally preferable to glass bottles.

The first recommendation we have here is a recommendation that was made by the Environmental Commissioner. He said, “Implement a deposit-return system for all LCBO containers.”

Mr. Bisson: I just have a question on that point: When we say “deposit-return,” we're talking about recycling into a bin? What's he actually saying?

Ms. Hull: Oh, sorry. “Bottle return” and “deposit-return” are sometimes used interchangeably. “Deposit-return” or “bottle return” means where you pay a small amount when you buy the product, and then when you return the empty, you get the—

Mr. Bisson: And it would go back to the manufacturer for reuse.

Ms. Hull: Yes.

Mr. Bisson: Okay. Got you.

The Chair: I don't think the Environmental Commissioner, to my recollection, got into particular mechanisms, whether it would be at the LCBO itself, the Beer Store, a depot system, what have you. He just made a general recommendation—am I right?—that there should be some form of deposit-return system for LCBO containers.

Ms. Hull: That's correct

The Chair: All right. We'll pause at that point. Carrie, thank you very much.

So one recommendation for consideration to the committee is to implement a deposit-return system for all LCBO containers, and that came from the Environmental Commissioner.

Ms. Smith: I'd just like to comment on a couple of things in the background, if I could. I'd like the chart that's included to be distinctly noted that it's the Environmental Commissioner's. I would also like to just note that the LCBO did note that aseptic beverage alcohol containers, which are part of their reduce strategy, have only existed for the past few years and so no data exists. He did acknowledge that there wasn't a lot of data around Tetra Paks, but the LCBO did note that because they've only been used for a couple of years, they didn't have data either. As well, the LCBO noted that the children's juice boxes, which do use the aseptic containers, have not been recycled through the blue box system historically because the schools haven't adopted them. So we haven't got a real sense of what the environmental impact is through the use of the aseptic Tetra Paks.

I personally thought the Environmental Commissioner's knowledge on the Tetra Pak issue was minimal at best, and I didn't think it was particularly helpful. So I'd just like that noted. I don't think it necessarily reflects the science that's out there.

Mr. Bisson: What you're saying is kind of what he says in the report.

Ms. Smith: Pardon me?

Mr. Bisson: In the report, the Environmental Commissioner basically says on the Tetra Paks, "We're not falling on one side or another, because we don't have enough evidence." It kind of says that. If you want to clarify it a bit in the report, that's fine by me, but it seems to me it's said.

As far as the recommendation on deposit-return by the commissioner, what are people feeling on that?

The Chair: Mr. Bisson, you're happy with that recommendation—

Mr. Bisson: I'm asking where people are at with it.

The Chair: Any comments on—

Ms. Smith: The government's already indicated that they're looking at that plan, so we're fine with that recommendation.

The Chair: Any comments?

Ms. Scott: I think Carrie's done a good job summarizing. If Ms. Smith wants it put in the box that "the Environmental Commissioner recommends," I don't have a problem with that. It is from the Environmental Commissioner. It's pretty clear. He did talk about the Tetra Paks. He's got statistics somewhere. He said that—I agree with Mr. Bisson—they have minimal information, but they're starting to get it. It's been out there. There is a figure there: 13% to 25%.

Mr. Bisson: I would say that it would probably make more sense—I guess there are two things. One thing is that the Environmental Commissioner recommended this as one of the things we should do. I think at one point in

the report we've got to indicate in our recommendations that particular point, and that's what I was wondering. Are you okay with it as a recommendation of this committee, or did you want to just keep it as a recommendation from the Environmental Commissioner? I think it has to come from us, and I think I heard Monique say yes.

The Chair: If you could make a clarification, that was my impression, that that would be one of the recommendations of the committee in the report.

Mr. Bisson: Yes, we're fine.

Ms. Smith: Yes, we're fine with it being a recommendation of the committee. I just wanted those other points noted or included.

The Chair: Yes, noted for sure. I think definitely make sure that the source of that graph is the Environmental Commissioner.

I heard your other concerns about language: I do think this is a fair summary of what the Environmental Commissioner said. As indicated, I think we can come up with some mechanism to give the LCBO's point of view on some of these things in an introductory package or some sort of background material so that the counterpoint you brought forward is there. It's pretty clear in the report that the Environmental Commissioner commented that the Tetra Paks are still uncertain. I don't think he's saying that he has a great deal of information on them and the environmental impacts or benefits.

I'm fine with the change in the description of the graph.

Ms. Smith: Perhaps I can just provide the researcher with one line on that change, on children's juice boxes and the lack of knowledge on that, which we can add in as part of the evidence we heard.

The Chair: Okay. Go ahead and submit that.

Ms. Smith: We can take a look at it in the next round.

The Chair: Yes. We can have it as a discussion point to add in that paragraph. Anything else on that first section?

Ms. DiNovo: Not having been privy to the lead-up to this, just a question about the Ontario producers: Did we have some insight from them as to how many would reuse the bottles and how many of the foreign bottles—I see one of the LCBO's objections is that many of its suppliers are foreign. What would the percentage be that would not be recycled and what would the percentage be that would be, and what is the input from our Ontario producers? If somebody could enlighten me—

Ms. Smith: We don't really have that information. It wasn't presented to the committee. The evidence was that the majority of the suppliers of the LCBO were foreign; not many, but the majority. It's hard to know, I think, what the take-up would be until a program is proposed.

The Chair: I think the reality is that we had a limited number of presenters who either came forward or sent in submissions, and if they sent submissions through the clerk, all the members would have received them, as well as research. Research has done their best to distil the data they received to put in the report. I'm very wary of then

trying to get a second batch of information. I think we should concentrate on what we heard at the committee. I think what you say is valuable, but I think for the purposes of this report writing, we should just concentrate on the data that we did receive through the committee process and that the Environmental Commissioner has brought forward. I'm a little bit wary about going out and sourcing other groups that had not come forward to comment. I just think that would take us a long period of time, and they didn't appear. For example, the Wine Council of Ontario did not appear before this committee to give their input. They had their opportunity; I don't think we should give them a further opportunity to input on the report if they didn't choose to do so the first time.

We'll move to the second section.

Ms. Hull: I'm still on page 3. I don't know if there is anything we need to talk about on the bottom half of page 3. There is just some follow-up on what the commissioner suggested, that Ontario producers could re-use the bottles, while foreign bottles could be melted down. He talked about the potential ways of funding the deposit-return/bottle return system.

On the top of page 4 now, this is, again, a commissioner recommendation that the LCBO be designated as a prescribed agency under Ontario's Environmental Bill of Rights. What that would mean, which I have just below that, is that the LCBO's policies would be subject to review and comment by the public and the public would also be able to file applications for a request for a review of policies that have an environmental impact.

The Chair: Okay. We'll pause at that point. There's a bit of a summary on the bottom of page 3, as Carrie said, and then the point before the committee. Does the committee wish to adopt the commissioner's recommendation that the LCBO be a prescribed agency under Ontario's Environmental Bill of Rights? Open for discussion.

Ms. Scott: I'm open for that adoption. I think that was made clear. It was under the purview of Management Board before, and then when it got moved over to—was it consumer and corporate business? I'm sorry, whatever ministry it was—

The Chair: Public infrastructure renewal.

Ms. Scott: Now it is, which makes it not under the purview of the Environmental Bill of Rights. But the ministry it was with before, I believe it was economic development—

Ms. Smith: It was an economic development report.

Ms. Scott: Was it?

Ms. Smith: Yes.

The Chair: I guess the point is, certain ministries are within the scope of the Environmental Commissioner and the EBR; public infrastructure renewal is not. Therefore the LCBO is currently outside of the Environmental Commissioner's purview or the EBR.

Ms. Scott: So yes, I'm agreeing with that recommendation.

1030

Ms. Smith: Before we agree to that, I'd like some more information on when it has been and when it hasn't

been under the environmental review and what the implications of that are.

I also want to go back to page 3, where we talked about the various ways that we could introduce a deposit-return system. At the bottom of page 3: "The new system could potentially be financed...." Could we start that sentence with, "According to the commissioner"? Those were his ideas, not the committee's.

Mr. Bisson: But we also talked about that. The commissioner certainly did raise that in his presentation, but that was some of the discussion we had ourselves in regards to how it would be funded. I forget who the hell raised the question in regards to the \$5 million. It seems to me it was raised—

Ms. Smith: I'm sorry, who had that discussion?

Mr. Bisson: The committee. This was obviously a recommendation by the commissioner on how to pay, but some of these things are also the same things that we talked about.

The Chair: Let's do one issue at a time, just for organizational sake. Ms. Smith is asking to stand down recommendation 2 pending further information on when the LCBO has been under different ministries and what that means for the Environmental Commissioner's ability to review their operations or postings on the EBR. So we could get some more background information, which I don't think we have.

Mr. Bisson: Carrie, are you able to respond at all at this point? It's pretty straightforward to me.

Ms. Hull: To be honest, I don't recall when it was subject to review or if it has been.

Ms. Scott: But it's asking to be subject to review now, so we're just saying we agree that it should be subject to the review of the Environmental Bill of Rights.

Mr. Bisson: As are most other agencies or ministries.

Ms. Smith: I've asked for some background information.

Mr. Bisson: We're just putting on the record that it's fairly clear that it gives the commissioner the ability to review their policies when it affects issues that impact the environment. That's something we do as a matter of course for most—well, pretty well all—ministries and I would think most agencies as well.

The Chair: I tell you what, we'll stand down this recommendation. Research will get a response to Ms. Smith's inquiry and we'll e-mail it out to members of the committee, so that next time we revisit that section of the report, we'll have some clarity.

Ms. Smith, you had some concerns with the system recommendations on the bottom of page 3?

Ms. Smith: No, not concerns. I'd just like to note that at the beginning of the sentence, "The new system could potentially be financed," we say, "According to the commissioner."

Mr. Bisson: My problem is, I also think that's one of the ways you can do it; it's not just the commissioner. As a committee member, or former committee member, who did the hearings, I agree with that: That is one of the ways you can finance that. It's not just the commis-

sioner's view; that's what I'm saying. It's also my view that it's a way it could be done.

Ms. Smith: Then perhaps we could say, "According to the commissioner and Mr. Bisson."

The Chair: You're saying that for the paragraph that reads, "The new system could potentially be financed from the following sources," you want something like, "According to the Environmental Commissioner."

Ms. Smith: That's the evidence we heard.

The Chair: You could bring forward a recommendation to do so, right? But I think it's accurate to say that these three bullet points were from his report, because they were very clearly part of his PowerPoint presentation.

Anything else as we move past recommendation 2? Seeing none, carried.

Ms. Hull: We're moving on to the next issue, "Agency stores." We're in the middle of page 4.

Mr. Bisson: No, you have one more.

Ms. Hull: Sorry. All right, this issue came up in the general discussion around recycling at the LCBO. This is a committee discussion, not something from the Environmental Commissioner. The LCBO was asked why it does not have blue boxes directly at its retail stores, so that customers could bring their bottles directly to the store to have them recycled. The LCBO at the time indicated that it would explore this option. So I've just written:

"The committee may wish to make the following recommendation:

"3. Make blue boxes available at LCBO retail outlets."

Mr. Bisson: I'm fine with that.

The Chair: Any other comments on the blue box recommendation? Terrific. Thank you. Then we will adopt that as one of our recommendations.

Mr. Bisson: I only wonder one thing, though, just in passing: Would that be inconsistent? If you had a bottle return system, it becomes a little bit of a bottleneck about where you put the blue box. Do you know what I mean? You're coming in with your 50-cent refundable bottle, and there's a recycling box outside. Somewhere inside the store you have to have a way to capture the bottle to get your 50 cents. They'd have to do it like the brewery does. So one negates the other. If they go the way of deposit return, the actual blue box isn't a blue box anymore; it's one or the other. So it's a bit inconsistent. That's the only point I'd make.

The Chair: Do you want us to alter the recommendation to reflect that or just go ahead and leave it as is?

Mr. Bisson: I'm just saying, there are two different ways of doing it. If you have a bottle return system, then that captures the glass or whatever kind of containers that are brought back, and that's fine. If you don't do the bottle return thing, then the other option is, you have a blue box at the store. I don't see how you do both of those at the same time. You can't implement both. You've got to implement one or the other. That's all I'm saying.

The Chair: Nonetheless, are you happy with this recommendation?

Mr. Bisson: I'm fine with the recommendation. I'm just saying, do we want to put it in the report? There are two different ways of doing it, which we would identify in the report. Then, I guess it comes down to, do we have one that we favour over the other? Quite frankly, it seems to me that the bottle return is the way to go. It's just food for thought. Just go back and think about it, because you can't have them both at the same time. That's all I'm saying.

The Chair: We get the point, but we don't know what system is actually going to be—how this will operate has been announced for February 2007.

Mr. Bisson: It comes down to whatever the committee wants to do as far as its recommendation—if we favour one over the other.

Ms. DiNovo: I was thinking the same thing, but I was wondering if the intent behind this was to have this as kind of an interim measure and/or that maybe the Tetra Paks and other things that can't be refilled and reused would go into the blue box; that that would be a way of encouraging people to recycle everything, including packaging that wasn't part of the other process. I don't know, so I was just looking for clarification.

The Chair: Why don't we keep this recommendation? We can have an asterisk to say that the committee may want to give further advice when they understand the details of what the deposit-return system is going to look like in the province of Ontario. I'll just leave it at that.

Mr. Bisson: Sure.

The Chair: Ms. Smith, are you okay with that?

Ms. Smith: I'm fine with that.

Mr. Bisson: It's so easy to get along with you.

The Chair: So we have now completed the first section, on "Recycling, bottle return and Tetra Paks."

"Agency stores." Carrie.

Ms. Hull: Now we're at the bottom half of page 4. This deals primarily with the issue of agency stores, largely as presented by OPSEU, the Ontario Public Service Employees' Union. The argument has been that the LCBO is engaged in a covert form of privatization through the expansion of the agency store network. According to OPSEU, the number of agency stores has more than doubled, from 82 to 194, while sales during this time have increased from \$17 million to \$78 million. One of the arguments that OPSEU made before us was that the expansion of agency stores is a threat to the social responsibility mandate of the LCBO.

Ms. Smith: Chair, I'd just like to interrupt there before we read all of this into the record yet again. When we asked for specifics, the OPSEU presentation was unsubstantiated. There was no evidence given to back any of these allegations. I think it's inappropriate that we would be repeating the entire testimony of OPSEU, which had no foundation or basis of evidence that they were able to provide us. We can highlight some of their concerns, but I think that this is inappropriate. When we asked them specifically for evidence of incidents where any of this occurred, they were unable to give it to us. That's my point on that.

Mr. Bisson: I disagree. I think there is evidence out there, and some of it was presented to the committee. I guess the question becomes, how do we want to structure the report? Do we want the report to reflect what we heard or do we want it to reflect what we want to say?

Mr. Milloy: When they asked about underage youth, all they said was it was just anecdotal. The guy admitted that he had no evidence.

Ms. Smith: He had no specific evidence. Unless you can point out to us something that I missed in the transcript, they had no specific evidence. They were asked about it specifically. We asked them to provide us with incidents; they had none. So I just think that it's inappropriate for us to be even discussing this. They had no evidence to back their accusations.

1040

Mr. Bisson: In the first paragraph, you're going to tell me that's not true? We did go from 82 stores to 194 in that time period.

Ms. Smith: Certainly the LCBO spoke to the number of agency stores that are available, that are providing service to remote communities like yours and mine, Mr. Bisson. I don't think either of us disagrees with the presence of agency stores in our communities. But to say that the LCBO has engaged in a covert form of privatization is strictly OPSEU-speak and I don't think necessarily reflects—

Mr. Bisson: The question I guess I'm posing is, you can either have the report reflect what you heard from the individuals—and if that's the case, then we're correct in writing it this way—or we take the information that was presented and we put it in our own words. As I see this report written the way it is, we're saying, "Here's what we were told, here's what the LCBO had to say in response to some of it and, at the end of it, we're going to make recommendations." So I'm fine with the way it is.

Ms. Smith: I guess a compromise would be that we can reflect some of the views of OPSEU without going into some of the specific allegations that they made that they had no basis to make and that they provided no evidence for.

The Chair: I think the goal of the report is to reflect what we heard and then to determine if the committee makes recommendations based on what we heard or not. I want to err on the side of reflecting what was said. I appreciate Ms. Smith's point that maybe some of this is extraneous. I wonder if we could try—not here at the table—to reach some compromise language that summarizes OPSEU's concerns without going into some of the detail that Ms. Smith or other members of the committee may have.

I don't want to get into a sort of rebuttal thing here where, "OPSEU said this but some members of the committee said that." Maybe there's a way of distilling these four or five paragraphs into two or three that reflect OPSEU's main concerns without causing committee members to feel a concern to rebut. Does that sound fine?

Ms. Smith: I'm fine with that.

Ms. Hull: Can I just interject for a second? This document was never meant to be a report. We were asked

to come up with recommendations and we asked the committee to help us provide recommendations. We were left with the task of extracting recommendations from what happened that day. So we're very happy to make any changes that you recommend. At the moment, I see this as a summary to help you to make your recommendations.

The Chair: So we will try to work outside of committee on the language in these six paragraphs describing OPSEU's input so that we won't have to worry about rebuttal arguments.

Why don't we move on to recommendation 4, which deals with moratorium and legislative review?

Ms. Hull: Would you me to read the recommendations?

The Chair: Go ahead.

Ms. Hull: These are very clearly OPSEU's recommendations.

"Moratorium and legislative review

"(4) Declare an immediate moratorium on all future agency store openings—including those announced on May 15, 2006—pending a thorough public review of the agency store program. This public review should:

—include public hearings in communities served by LCBO stores and by private agency stores; and

—focus specifically on the implications of the agency store program for public health and community safety, the LCBO's social responsibility mandate, and the LCBO's future as Ontario's public alcohol retailer."

The Chair: We'll stop at recommendation 4. Discussion on this particular recommendation as a committee recommendation?

Mr. Bisson: I'm fine with the moratorium.

Ms. Smith: We don't support the moratorium. We don't support recommendation 4 at all.

Ms. Scott: Chair, I can't agree with this recommendation from the committee at all, the recommendation of an immediate moratorium on all future agency stores.

The Chair: I'm not hearing consensus support. Maybe we can put this to a vote or I'll just scratch it off because there's not obviously consensus to support it. I don't think any changes of language, based on what I'm hearing from other members, are going to make it more appealing.

Mr. Bisson: I think the positions are fairly far apart. It's an issue that I know has been raised in my constituency because, as Monique, we have agency stores in the smaller communities where basically there are no other options for the people living there. I don't think that's the argument. We understand that if you're living in a community that's far away from a major centre and you want some service in your community, the practical way is to do an agency store.

But I think what we need to have is some sort of process to determine how that decision is made, what constitutes the conditions by which an agency store would be created. I don't see what's wrong with having—because all you've got now is a public notice in the paper. Everybody probably would have got lately

from the LCBO the renewal of contracts. I know we did in my riding. Basically all of the agency stores that have come to the end of their contracts, they're reposted again. It seems to me that you have to have some kind of a process that basically gives some rationale as to where an agency store should be established if it's a new one. I don't think that's unreasonable.

The Chair: We have another seven recommendations stemming from the agency stores section. Some of those, Mr. Bisson, do get to your point in terms of public consultations and how they are determined, or at least they could be modified to do that. So why don't we move on to some of the other recommendations here, and we'll scratch off number 4? I hear what you're saying. I think we'll get to it momentarily, about how agency store locations are determined.

Mr. Bisson: All right. Well, we may have to bring something in on our own afterwards. We'll see what happens.

The Chair: Yes. Number 5.

Ms. Hull: "5. Prevent existing agency stores from maintaining hours of operation that exceed those of neighbouring LCBO stores."

Ms. Smith: Chair, we don't have a big problem with that, although I would note to the members that in those areas where our tourism is an important industry and in our smaller communities, the variations on hours do allow for people to—if they can't get to the one in my community in Powassan, then they can drive 20 minutes. But if they really need to get there, they can get to another one for different hours. It's just a convenience question, but we don't have a big problem with this.

Mr. Bisson: Yes, and one of the problems too is even the LCBO stores themselves are not all open the same hours, as we well know. I've got three or four of them in my riding—well, probably more than that. Some of them have different hours. I'm not quite sure how you do that.

Ms. Smith: I believe that the decision on the hours of opening is based on—

Mr. Bisson: Is it the nearest store?

Ms. Smith: No, business practices and determination by the individual stores that these are the appropriate opening times.

Mr. Bisson: No, I understand that. But from the perspective of recommendation 5, I'm just wondering what hours it would use. For example, the main store in Timmins is open until 9 or 10 o'clock at night. Another store, let's say in Smooth Rock Falls, is probably only open until 6. So the agency store on Highway 11 should open until what time? That's all I'm saying; that's a bit problematic.

I agree with the recommendation that we have to have some sort of synchronization between the hours of agency stores and a retail store that's owned by the LCBO, but we need a little clarification on how they do it. Is it based on the nearest store to that community or something?

The Chair: Let me give you a suggestion on that. They do have what they would call—I don't know what

they call them—their "mother stores" or some term that they use, right? The store that they actually receive their shipment from.

Ms. Smith: Their supplier store, yes.

The Chair: Yes, which tends to be a neighbouring store of a certain size. So if you want, you can modify it to—now, am I using the right term? Does anybody know what they usually call it? "Supplying store"? We could actually find out what that term is and put in a placeholder.

Mr. Bisson: I should have read it, but I don't have my glasses. I didn't catch in the recommendation that it actually says "those of neighbouring LCBO stores." I'm fine. All of that to say that I should have read it in the first place. Sorry about that.

The Chair: Now, we have two options on the floor. We could accept that, then, as written, or Ms. Smith had talked about tourism purposes. Do you want to say "although exemptions may be granted for tourism purposes," add that in?

Ms. Smith: Well, maybe we can be a bit more broad than "tourism." I mean, there are different reasons in different areas. It's hard to reflect the variety of reasons across the province. I don't know. I just think it's a bit restrictive to put this kind of—in my community—and I think Laurie's got some too, right?—the agency stores are important for our communities. I don't want to see us restricting their ability to do business.

Ms. Scott: What exists right now? Why did this recommendation come forward? I can't remember the background. They said that there were some problems?

Ms. Hull: If you look at the top of page 5, which I stopped reading: "Agency stores are permitted to operate a maximum of 83 hours per week and may also remain open on public holidays." According to OPSEU, "Many LCBO stores have been restricted to 56 hours per week, and some have been ordered to close one day per week between September and May."

1050

Ms. Scott: I agree with Monique. In the rural areas, the agency stores keep some of my small businesses alive so they can keep going, so to offer them flexibility is what we need to do. But if they can work with their supplier stores—I know we're on 5, but recommendation 6 seems to say they're monitored by the closest regular LCBO store. Is there some type of working relationship with the main store? However we can put the most flexibility in in 5, I think—so I think maybe we could reword it.

Ms. Smith: Could we maybe recommend that we reword the language to see if there's something we can come up with next time and maybe have another discussion about it at the next meeting? I think we're all concerned about it.

Ms. Scott: I think we're all in the same spot.

The Chair: Okay. Based on that input, we will try to reword what sounds like a combination of 5 and 6, the relationship with the closest or neighbouring store. There seems to be some committee support for restricting

agency store hours, but there needs to be a degree of flexibility for local circumstances; for example, tourism purposes and distances. So we will—

Ms. Hull: Well—

The Chair: Carrie, go ahead.

Ms. Hull: I actually hadn't read 6 yet, so I'll just read that aloud.

“(6) Ensure that all agency stores are supplied and monitored by the closest regular LCBO store.”

Ms. Smith: Can I just say that we had evidence from the LCBO that indicated that all agency stores are monitored by the local LCBO stores. It's acknowledged somewhat in the report a little bit earlier. In some cases, agency stores also purchase from the closest regular LCBO store. So I'm not recommending this recommendation.

The Chair: Number 6?

Ms. Smith: I think it's already happening.

The Chair: Let's be clear. So we will table recommendation 5 to try to find a bit more flexible language that reflects the principle but also allows for some local flexibility for reasons like tourism purposes. So we'll stick with recommendation 6 for a second here.

“(6) Ensure that all agency stores are supplied and monitored by the closest regular LCBO store.”

Ms. Smith has just said that is actually the case, from what the LCBO had presented. Any other comments on 6?

Mr. Bisson: Just one second.

The Chair: No problem.

Mr. Peter Kormos (Niagara Centre): He was distracted, Chair.

Mr. Bisson: Yes, somebody came in here and distracted me.

The Chair: Are you in this class, Mr. Kormos?

Mr. Kormos: I'm not sure.

Mr. Bisson: Wasn't it the contention of OPSEU that it wasn't the case? I don't know if that's actually the case.

The Chair: I thought it was the case that the LCBO actually did monitor and they had a relationship with the closest store.

Mr. Bisson: No, I think their argument was that they're now starting to source the shipments of alcohol through the central warehouse. Some of these agency stores used to be supplied by the store in the neighbouring community. I think what they were trying to get at is they should both get their alcohol from and be monitored by the store from the nearest community.

The Chair: We have an option here. We could check with the LCBO to see if this is the case or not.

Mr. Bisson: Let's find out.

The Chair: Do you want to say, if it is, that they maintain that policy?

Ms. Smith: No. We just don't need that recommendation. If that's the practice, we don't need the recommendation.

The Chair: All right. We will stand down 6, pending whether that is the actual policy or not.

“(7) Replace existing agency stores with regular LCBO stores where the current or projected agency store sales volumes meet the minimum level to sustain an LCBO-run outlet.”

Mr. Bisson: I like that one.

The Chair: Mr. Bisson likes that one.

Ms. Smith: I think that's the practice now.

Mr. Bisson: So it stays; good.

The Chair: Ms. Scott, any comments on this one?

Ms. Scott: I think it exists now too. I don't hear any difference. Do we make a recommendation on something that already exists again? That goes back to our—

The Chair: I think it can. I'm not convinced that that actually is the policy. Maybe they do.

Ms. Hull: I think the LCBO indicated that they had converted one agency store into a regular store over its history.

Ms. Smith: Actually, I don't think it was over its history. It was in the last five years, and there were others that they were considering right now, I think was their evidence.

The Chair: So we'll keep it in?

Mr. Bisson: That's fine. That's okay like that.

The Chair: Okay. We will keep that one in.

“(8) Replace existing agency stores with LCBO-run and staffed outlets—including ‘kiosk stores’ located within an existing retail outlet, and/or other viable retail models—in areas deemed to be underserved but not able to sustain a stand-alone LCBO outlet.”

So replacing existing agency stores, which are privately run, with LCBO-run and -staffed outlets like kiosk stores.

Ms. Smith: We can't support this.

Ms. Scott: I can't support that, either.

Mr. Bisson: You guys are real party-poopers.

The Chair: Number 8 does not have a consensus, so I am going to strike out number 8. It will not be a recommendation of the committee.

Mr. Bisson: Be clear: It's not a consensus. I think it should stay in.

The Chair: Fair enough. Mr. Bisson is supportive of number 8, but because we don't have consensus of the committee, I am scratching out number 8.

Ms. Hull: We're on page 6 now. These are OPSEU's recommendations.

“If, following the public review, it is decided that the agency store program is to continue, OPSEU made the following recommendations:

“Transparency”—

Mr. Bisson: Can I go back to the previous one? That's all stores? I'm working without my glasses here.

The Chair: Which one, I'm sorry?

Mr. Bisson: Oh, number 8 was all stores. I'm sorry. Okay. I understand. Not a problem. I don't want to close down all the agency stores. I thought they were talking about the big stores, the ones that are really busy.

Ms. Smith: Welcome back. Excellent.

Mr. Bisson: When you're working without glasses, it's a bit of a problem.

Ms. Smith: Bring them.

The Chair: It was a larger store with heavy volumes, not the smaller ones.

Mr. Bisson: That's right.

The Chair: That's made that clear, but we're not going ahead with number 8, then.

Mr. Hull: Again, these are the recommendations OPSEU has made.

"If, following the public review, it is decided that the agency store program is to continue....

"9. Introduce regulations requiring prior public notification in the local media, public hearings and approval by a vote of the local municipal council for both (i) the selection of any future agency store host community and (ii) the approval of any individual store operator."

The Chair: The committee has already rejected the notion of a public review, right? That was bullet point 4 that we scratched out. But we could say "on a go-forward basis for any new agency stores," and then we can deal with these next items. So we'll start with number 9, as Carrie just read, which is a local supportive host.

Ms. Smith: For the record, I believe the LCBO did indicate that municipalities are consulted prior to ads even being placed.

The Chair: I don't think there's a vote. This has a specific language around the vote of the local municipal council. So I think this goes a step farther.

Ms. Smith: I wouldn't support this recommendation.

The Chair: Other comments?

Mr. Bisson: I can understand the impracticality of trying to undo what's already there. So we're not going there.

The Chair: This would be on a go-forward basis.

Mr. Bisson: It's a go-forward basis. I guess part of the thing is it's a question about—there should be a transparent process about how we make the decision. Is it an agency store or is it a regular LCBO outlet? You'll understand, Monique, as well as I do, in many cases in small towns you can't go to a regular store. There's just not enough volume. That we understand and don't have a problem with.

Ms. Smith: That's not what this is about, though.

Mr. Bisson: What I'm saying is that somewhere in here, what I would be in favour of, there should be some sort of recommendation that says, "Here's the process by which there's going to be a decision made as to whether a new agency store needs to be opened up." Some of this is already done. We already publicize in the papers. I think the only thing we need to have is some sort of mechanism so the public can have its say as to what, at the end of the day, that particular community wants. If the numbers warrant having a regular store, why not? So if there's some way of getting at that, I don't see the problem with that.

Ms. Smith: This recommendation actually requires the municipal council to approve an individual—

The Chair: You're trying to develop some sort of consultation mechanism.

Mr. Bisson: All I'm saying is, it's not this. What I'm saying is that I think we need to have some sort of

recommendation about how a new agency store is created, and we need to have some sort of mechanism. We already post in the papers. We know that already, right? Municipal councils are consulted—they're told about it; there's no question about that—but there's no mechanism other than that. There's no mechanism for the public to find out. All I'm wondering is if we can come up with something that says, "Here's the mechanism by which the decision will be made."

The Chair: So we're rejecting recommendation 9, which—

Mr. Bisson: With the caveat that we need to come up with something.

Ms. Smith: We can ask the researchers to provide us with an outline of what it is they do now, because there is an ad placed in the paper. People do have an opportunity for input. I think the process is transparent. So I'm not sure that we need to make a recommendation on this, but maybe we can get the information of what actually occurs now, and then we can look at it again.

Mr. Bisson: Just specifically, because what my concern would be is that we don't want to be opening up an agency store where, quite frankly, a regular store could be opened. That's what we're trying to get at here. There are a lot of communities that I agree are so small that the agency store is the only option, because a regular store couldn't survive there. But if you do have one that should be a regular store and somehow or other is being shoved toward the agency store model, there needs to be some mechanism by which the public has a say.

1100

The Chair: Why don't we, then, ascertain the current consultation policy? We'll come back with it and the committee can then decide if they think that is satisfactory or if it should be enhanced. As far as number 9 goes, we'll reject the voting aspect.

Mr. Bisson: Yes, and understanding that I well know that that wouldn't have been passed by the government or the opposition, so I'm trying to find some other compromise way of dealing with this.

The Chair: Recognized. So we will come back to the committee with the current LCBO consultation policy, and then the committee can decide if they will recommend an enhancement to that consultation policy.

Mr. Bisson: I just have one other thing on that point. There's this whole issue of the regular policy right now. In 10, they were recommending "within 15 kilometres." I'd like to know for sure what the actual policy of the LCBO is? What are their criteria for creating an agency store? Is it "not any closer than so many kilometres"—all of that stuff?

The Chair: We're moving on to number 10, which deals with the distance, which Mr. Bisson was just speaking about. Carrie, go ahead with number 10.

Ms. Hull: "(10) Ensure that no new agency store location will be considered unless it is demonstrated that:

"—there is no existing LCBO outlet within 15 kilometres of the proposed agency store location;

"—the proposed host community cannot be served through an existing LCBO store;

“—current and future demand is not sufficient to sustain either a regular ‘stand-alone’ LCBO store or an LCBO-operated kiosk; and

“—the approval of an agency store will have no serious negative impact on other area businesses or put them at a significant competitive disadvantage.”

The Chair: Any comments on this recommendation?

Ms. Smith: The current policy is 10 kilometres, and that’s based on a detailed market analysis. We don’t believe there’s any reason to change that, and I don’t believe that there was really any argument put forward to change that. That’s just on point 1. If we can agree to change it to 10 kilometres, then we’re okay with point 1.

The Chair: What about the other three points? Are there any that scream out at you, that you don’t like?

Mr. Lou Rinaldi (Northumberland): I just wonder if you could bring forward for the next meeting the policy and procedure on how they establish and how they capture to review all this at the same time. I think the whole box—

Mr. Bisson: I’m being quiet here because I thought that’s what I recommended at the beginning.

The Chair: I’m sorry; I didn’t realize that.

Mr. Bisson: I was saying to take this in one comprehensive recommendation—

Interjection.

The Chair: All right, fine. We will stand down this whole box, pending getting clarification from the LCBO on what their current policy is. For number 9, as we’ve said, we’re going to—

Mr. Bisson: We’ll just deal with 9, 10 and 11 all at once.

The Chair: Exactly. We will get clarification from the LCBO as to what the current policy is, we will look at OPSEU’s recommendations and our own views, and then determine if it needs to be enhanced, weakened, clarified, whatever. So, another day.

Carrie, it’s yours to continue—at the bottom of page 6.

Ms. Hull: The bottom of page 6 is the LCBO’s response to OPSEU’s recommendations, and some of these we’ve already touched on.

The LCBO says it does not locate agency stores less than 10 kilometres from an existing LCBO outlet. As we’ve discussed in committee, the LCBO and committee members have argued that agency stores may help to preserve a fragile business district in a small community. The argument is that with the LCBO store taking away from the agency store, these small communities could lose some of this business traffic.

The LCBO has also argued that agency stores almost always buy their alcohol from the local LCBO.

Lastly, the LCBO officials argued that the risk of a private operator losing their licence is so great to their business that it is very unlikely that they would sell alcohol to minors or intoxicated people.

Mr. Bisson: Were there any stats available, as far as the agency stores’ refusal rates? I don’t think there were.

The Chair: I don’t recall that being brought forward. The LCBO did for the LCBO stores’ stats.

Ms. Smith: Yes.

Mr. Bisson: Does that come up later, under social responsibility? We’ll deal with it then. It probably does, eh?

The Chair: We will ascertain whether there are any statistics for the agency stores. We have a concluding recommendation, number 12.

Ms. Hull: “In a community where an agency store has a high volume of sales, open an LCBO outlet in order to determine whether this would be a good general policy.” And let me just qualify that this was a committee-made recommendation.

Mr. Joseph N. Tascona (Barrie–Simcoe–Bradford): I recall from the testimony that we did get from the LCBO that they had a situation where there was an agency store and it did so well that they decided to put in an LCBO store. That’s what I recall. This recommendation doesn’t make any sense because I think it really has to be up to the LCBO to determine whether there is a good business case to do that. It’s an open-ended thing saying, “Open one up and see if this is a good general policy.” You’ve got to have some business case behind it. So I don’t really think that recommendation makes any sense, and based on what the LCBO is doing, it sounds like they look at that already. So that’s just my comment on it.

The Chair: Further comments on number 12?

Ms. Smith: Well, I think it’s also reflected in recommendation 7, which I can’t remember if we approved or didn’t, but—

Mr. Tascona: Probably not.

Interjection: You said you were okay with that.

Ms. Smith: Yeah, I think we said we were okay with that because if they reach minimum levels—

The Chair: This seems to suggest that a pilot store be opened and then closed down if it doesn’t have the volume, which—

Ms. Smith: It doesn’t make any sense.

The Chair: I think 7 is a better recommendation than 12. So we’ll keep on with 7 and we will scratch out number 12. Now, are there any further—

Mr. Bisson: Can I just ask a question? Is the reason you put that there because that would actually be a recommendation of ours where the other ones were basically, “Here’s what OPSEU said”? Is that why you put that there?

Ms. Hull: That is the main reason, but it was also, as Mr. Hudak just said, a test case scenario rather than replacing all agency stores with LCBO stores when sales volume warrants.

Ms. Smith: I think it was based on what you wanted, Gilles.

Mr. Bisson: No, no, I just want to be clear why she put it there, that’s all.

The Chair: Are there any other comments? We have some interesting work for research to perform for the next time we address this issue. Any other comments under “Agency stores”? Any other comments on that section? Seeing none, we’ll move on to “Domestic small producers.”

Mr. Bisson: I'm a domestic small producer.

Interjection: I bet you are.

Mr. Bisson: Twenty-four cases this fall.

The Chair: Would you consider yourself a small consumer as well?

Interjections.

Mr. Bisson: Twenty-four cases of grapes—I crush it and make my own wine.

The Chair: All right. The floor is Carrie's. Order.

Ms. Hull: We had two deputations that day from domestic small producers. The first was from the Grape Growers of Ontario, the second from Ontario Craft Brewers. The Grape Growers of Ontario expressed approval of LCBO programs promoting Ontario wines, and you may recall that they repeatedly defended these programs by saying that each vine planted in Ontario generates \$13 in tax for the province. The CEO of the Grape Growers indicated that they have several outstanding issues that they claim prevent Ontario wines from improving their market positions. First of all, many small VQA wineries do not have access to the LCBO because they need to have a certain number of cases available for sale. The LCBO grants shelf space based on market share, giving Ontario wines an extra 4% in order to promote them. Furthermore, there are approximately 290 off-site winery retail store licences available in Ontario, the majority of which are owned by Vincor and Andrés. Small wineries are unable to benefit from these stores, which sell their own products. The CEO also highlighted the misconception that Ontario wine is 100% Ontario-grown, when it is often blended. As a consequence of this presentation, the Grape Growers of Ontario made the following recommendations. Now I'm on page 8, recommendation 13: "Grant more shelf space to 100% Ontario wine."

The Chair: So a simple, general recommendation. No specifics on—

Mr. Tascona: What's 100% Ontario wine?

The Chair: To be clear from the presentation—

Mr. Tascona: What is it?

The Chair: The meaning here is that these are Ontario products which are made up of 100% Ontario-grown grapes commonly. VQA, for example, is a 100% Ontario product.

Mr. Tascona: I would support that.

The Chair: The concern that Ms. Zimmerman brought forward was that there are blends that take up shelf space that could have as low as 5%—was it, on the last agreement?—Ontario content and 95% brought in from Chile and what have you. So her recommendation was to increase shelf space to 100% Ontario wine.

Mr. Tascona: I can support that.

The Chair: Adopted. We're on a roll. All right.

Ms. Hull: Recommendation 14: "More fairly distribute off-site winery retail store licences."

1110

Mr. Bisson: So I take it, in order to open one of those stores, like at the grocery store—what do they call them?—a kiosk, a boutique, you need a licence.

The Chair: Yeah. I can—

Mr. Bisson: No, do you need a licence? I wasn't aware.

The Chair: Yes. There were a number of licences that were distributed up until 1993 and basically have really been frozen since then. They've been captured over time by Vincor and Andrés, largely. Those that you will see in your grocery stores usually belong to Vincor or Andrés. Some will be Colio, for example. They are existing licences and they are transportable. They could move it from the Loblaws to the Sobeys, but they belong to those companies. If you open up a winery in the province of Ontario, you're allowed one single licence, and that's at the site of the winery itself, the retail licence.

Ms. Zimmerman's point was that the large producers have an unfair market advantage because they're in grocery stores, whereas the small producers are only at the winery site, be it in Niagara, Prince Edward county, Pelee Island etc.

Mr. Bisson: For what reason do we not allow them to have more than once licence so that if they are able—I'm a winery that makes X amount of wine, and I can make a deal with the Loblaws down the street or in the community next door and put a kiosk in. Is there a reason why I would not be issued a licence? Is there a rational reason why?

Ms. Hull: Trade agreements. I think that the number of licences has been frozen as a consequence of trade agreements. Isn't that the case?

Mr. Bisson: Okay. Go ahead, Monique.

Ms. Smith: The language of this recommendation is somewhat loaded, so I think we need to change the language and maybe ask for a review of the distribution of off-site winery retail store licences so that we can look at how it's being done. But before I actually say that we'll totally back that, I'd also like some background information as to how it is done, just to confirm—not that I doubt your knowledge base on this, Chair, but just so we can confirm. Why is there a limit on one for the small, was it frozen in 1993 and what is the distribution now? How many are out there since 1993?

The Chair: The total, the aggregate number? Yeah, it's eye-opening. Absolutely. Why don't we try to get some more information on the current structure and the reasons for the restriction since 1993?

Mr. Bisson: Just a question to research: You're saying it was because of trade agreements?

Ms. Hull: I believe that's the case. At least, that's the reason that I've seen offered in the literature.

Mr. Bisson: I need more information on that.

The Chair: Okay. Can we add to that too, motive? I think Ms. Zimmerman's motive here was to help the small and medium VQA producers, to give more opportunity to the small and medium VQA producers. Research staff can verify that was the motive behind it, but I think that was why she wanted a review of the licences, because the small VQA producers are limited to their winery only, while the large, often-blended products have massive distribution ability because they have the

existing licences. I think we should have a motive why the Grape Growers had recommended this examination. So we're shifting away from the command of redistribution, and Ms. Smith has proposed a study. We'll get some more detail as to how we got to this point in time. It should be an interesting discussion.

Ms. DiNovo: I'm kind of jumping ahead to 16, but again, this goes back to the agency versus the LCBO outlet. I'm wondering about the LCBO's input on the more fairly distributed off-site winery retail store licences. What does that mean? How many? What would the LCBO's role be in that? What they have to say to it would be something of interest, I think, because recommendation 16 specifically talks about the LCBO, yet this one doesn't.

The Chair: All right. As part of the information gathering, we can ask the LCBO if they have any opinion on the existing distribution of licences for wine retail. Very good. So, standing that down for some clarification information.

Number 15.

Ms. Hull: "Increase consumers' understanding of the nature of VQA wine and Ontario-grown wine, with the assistance of legislative changes to the Wine Content and Labelling Act."

The Chair: You might want to refer back on this too. The Wine Content and Labelling Act determines how much domestic product you would have in a bottle of wine before it can be called a Canadian product. For example, if you go to the LCBO and you see something called "cellared in Canada," under the recent agreement, it could have as low as only 5% Ontario grape product. VQA is 100% Ontario grape product. Some consumers will know that. Grape growers would argue that the vast majority would not, that if they saw a product called "cellared in Canada," they would assume that was 100% Canadian product. In fact, it's not.

Mr. Bisson: What kind of changes would you have to do to the act? Better labelling? I'm just trying to figure out where you would go with this. Not that I'm opposed, but I'm trying to figure out how you make that happen.

The Chair: We have two options here. We could do what we've been doing and get more information on the Wine Content and Labelling Act and get into the specifics. We could also have a more general recommendation that the LCBO should simply increase consumers' understanding of VQA wine versus "cellared in Canada" wines. We could probably phrase it a bit better, but try to develop an understanding among consumers what products are 100% domestic product and what products contain blended products.

Ms. Smith: I'm fine with that.

Mr. Tascona: Whatever you think, Mr. Chairman, to promote the wine industry I'm supporting.

The Chair: Thank you. There you go. We'll go with the motive behind this. I don't think we need to get specific, because I think that will take us a lot of time on legislative changes. But we'll recommend that the gov-

ernment make efforts to increase consumers' understanding of VQA wine versus blended wine.

Ms. Scott: I totally agree, and the agricultural industry too, because they think they're buying Canadian products and they're not. It's to do with labelling. If we want people to shop more for products that are produced in Ontario or Canada, we've got to change a lot of our labelling laws, and this is a step in that direction. Because I think I'm buying an Ontario product and I'm not, really. It's the same with the ice cream. The butter oils are imported from the States. There are only 14 dairies that actually have 100% Canadian content in ice cream. It's a similar thing about labelling problems that we're having. People aren't able to identify what's grown in Ontario and in Canada.

The Chair: I appreciate the point. Do you want to get some feedback on the Wine Content and Labelling Act itself?

Mr. Bisson: I don't think it's a bad idea just so that we understand it.

Ms. Smith: I think if we get the background information on the act and we find out what we're doing around education for VQA now, then we can come up with a recommendation that we think reflects what they wanted but is a realistic, tangible recommendation.

The Chair: Right. So we'll have a general recommendation in terms of increasing understanding between what's domestic product fully and what is not, and the committee can also consider specific changes to the Wine Content and Labelling Act, if it so chooses.

Recommendation 16.

Ms. Hull: "(16) Create a specific VQA division within the LCBO, and develop VQA-only stores under the auspices of the LCBO."

Ms. Smith: We did hear some information about VQA within the LCBO, and I thought that they had specific staff who are VQA specialists. Also, there are some stores that seem to specialize in VQA. I don't know if they're considered designated VQA stores. Maybe before we push forward with this, again, we could ask for a little bit more information around what the LCBO does with VQA now, just so we have a better sense of what they're doing now and what we can recommend moving forward.

Ms. Hull: If I could just interject, in the background document I think I have several pages on the LCBO's VQA programs. As we state at the beginning of this draft summary, that information will all be included at the beginning of any final report documents. But you might want it more specifically attached to this section.

Ms. Smith: If we could just get some bullet points for our next meeting so we know what's there now, and then we can see if there's anything we think we should be moving forward with. That would be helpful.

The Chair: These are two specific recommendations, so I think that's actually broken up into 16 and 17: a VQA division within the LCBO, and then "develop VQA-only stores under the auspices of the LCBO," is a very specific policy. I'm sure it would be very welcome

by the Grape Growers and domestic wineries, but I think it's a substantive change, so it should have a stand-alone recommendation.

Mr. Bisson: We're going to deal with this a little bit under the Craft Brewers, but I think we heard the same thing—correct me if I'm wrong—from the people in the wine industry, and that is, trying to get shelf space in order to get your product on the shelves. Isn't that an issue for the wine people as well?

The Chair: Absolutely.

Mr. Bisson: It seems to me that maybe that's one of the things we need to get at, because, as I understand it, it's fairly difficult to get shelf space to be able to showcase your product. It seems to me that we need to have something about that in the recommendations as well for winery.

1120

Ms. Hull: Would you like to amend recommendation 13 or open that up again?

Mr. Bisson: I was going to raise it then but I didn't, because I knew we were coming to it later. Does the committee want to take the position that it's only going to be for those products that are 100% Canadian grape? What do you do if you've got, in some cases, one that's a blend, where it's 80% Canadian with 20% American Zinfandel grape or whatever? I don't know. Is there a con to doing that? The product is made here and most of the grape comes from here.

The Chair: The Wine Council of Ontario didn't come before us. The Grape Growers, though, are very strong on their position here in the presentation that the emphasis should be on 100% Ontario product. They are concerned about blends.

Mr. Bisson: You know your industry more than I do. I'm just asking, by saying 100% only, that that's the only way you get extra shelf space, is that a problem for the wine industry? I don't know. You would know, Tim.

The Chair: I think to characterize it, some of the larger producers that do the blends would begrudge that policy, because they want the shelf space for their products, and then you'll have some of the small VQA producers who will say, "No. We need more shelf space here." I think number 13, though, says, "Grant more shelf space to 100% Ontario wine." It doesn't really say to take it away from the blends, right? So I think that is a position that won't create any kind of controversy in the domestic industry. You might have imports that would be upset about that.

Mr. Bisson: So there's no red flag with you, that's what you're saying.

The Chair: Absolutely not.

Mr. Bisson: You know your area. I'll defer to the Chair.

The Chair: We're getting some recommendations back on the LCBO's policies around VQA. What do you want to do with number 16, "Create a specific VQA division within the LCBO"?

Ms. Smith: This is where I recommended that we get more information about what it is we're doing now, and

that we come back and talk about what it is on both sides—what it is we do now about divisions, whether or not we have specific stores and if they're designated that way, and then what we could do and recommend from there.

The Chair: And 17 in the same way: "Develop VQA-only stores under the auspices of the LCBO."

Ms. DiNovo: I would agree with Ms. Smith. My understanding is that there are VQA divisions within the LCBO currently, so I would be very interested in what that is.

Just a general comment about 13, 14 and 15 versus 16: They seem very vague, and I just wonder if there maybe has been some consultation with the Grape Growers about what it means to grant more shelf space. How much more shelf space? What does it mean to "more fairly distribute off-site winery retail store licences"? How many? What does "increase consumers' understanding" actually mean in terms of specifics that would satisfy them? What are they looking for here? So I would be interested in the stakeholders' response here. Maybe, again, you've been privy to it and I wasn't.

Ms. Smith: Just to comment on that, I recognize what Ms. DiNovo is saying, although I don't think we want to get terribly specific, because the more specific we get, the more directive we are. The LCBO does have to deal with all of its stakeholders. I don't think it's the position of this committee to be making business-oriented decisions. I think a general policy overview is our mandate. I just caution on that. I'm not saying it's wrong; I'm just saying let's be cautious.

The Chair: The way I'd like to proceed, as I indicated earlier, is that some of the groups that had the chance to come before the committee did not make any submissions whatsoever. I think we should probably stick with the information that we have before us. If we get into too many specifics in terms of how much more shelf space etc., we might find ourselves arguing about smaller differences than the general principle. I grant an exception to the LCBO, because we need some clarification on their existing policy. So I think we can go back to them for more information for the committee's background, but I'm loathe to go back to different stakeholder groups for specifics. I think Ms. Zimmerman was very clear on the general principles, that they want more shelf space for 100% Ontario wine and the distribution of retail store licences. I'm not going to go back and ask for specifics on the numbers. I prefer that this report just be principle-based.

We're going to come back with 14, 15, 16 and 17. But we got 13 through. Good.

"Ontario Craft Brewers."

Ms. Hull: The president of the Ontario Craft Brewers generally approved of the services provided by the LCBO to small breweries. The committee learned that sales of OCB products have grown between 30% and 50% in the last year. This is, in part, because, as the LCBO also acknowledged, consumers are increasingly demanding premium products.

As was the case with the Grape Growers of Ontario, though, the president of the Ontario Craft Brewers expressed concern about the LCBO's shelving policy, which awards product shelf space based on sales volume. The brewers argued that it's fairly easy for them to get a new product onto the shelf, but it's hard to keep that position. That is because the LCBO awards the shelf space based on sales volume. The Craft Brewers argued that they don't have the advertising budget of the large brewers that might permit them to attract customers very quickly. They also just had a general comment that a growth-based shelf space policy might improve the position of microbrewers, particularly in the early stages of a product's launch.

The Craft Brewers also contended that the LCBO demands fairly high service fees. The Craft Brewers said that this is, in large part, merited because of the LCBO's premium retailer status. These service fees include a tax component. However, that means that it costs microbrewers about \$5 extra per case of beer to sell their products at the LCBO as opposed to their own brewers' store. Given the already small margins of these products, these service fees can be onerous.

As a consequence of these comments, the craft brewers made the following recommendations—the first is presently numbered 17: “Implement a growth-based shelf space policy.”

Ms. Smith: First off, on the narrative, we don't have anything here from the LCBO. They actually told us about a very detailed program that they have with the Craft Brewers and about how they work with local breweries and try to carry their product in local stores and local agency stores and that they try to deal with the Craft Brewers on the volume that they can provide them. So some of the limitation on how much space they give is because they can't provide them with a great deal of product because they're small brewers. There was a lot of information given by the LCBO on that and none of it is included here, so I'd like to see some of that included.

As well, just on the “premium retailer” term, I don't know if that was what the microbreweries called them or if that's what we're determining they are, but I'd like to see if that's an actual term of business.

Demanding higher service fees: I assume the microbreweries actually told us that. I just want to make it clear that they aren't charged any more than any other brewery. That \$5 extra that they claim they're paying per case of beer is compared to what they would be charged to sell through the Beer Store, not compared to any other brewery or any other product that's in the store.

The Chair: That's sort of a general concern. We'll try to find a way to remedy it in the LCBO's side of the story, as part of our presentation. We can also confirm the \$5 issue. I think we can find ways to phrase it to address those concerns.

Anything more on recommendation number 17?

Ms. Smith: Given what the LCBO said about their programs around craft breweries, I think that basically they do have a growth-based policy.

Mr. Bisson: I don't remember the case that the brewers made, but I thought part of the problem was how long you stay on the shelf. First of all, getting on the shelf is the issue. How long you stay on the shelf is based on your sales. That's what they were arguing. So when we're saying, “Implement a growth-based shelf policy,” I take it that we're talking about how you get on the shelf initially, right?

Ms. Hull: No. From my understanding of LCBO literature as well, the LCBO does welcome new product, particularly from these small brewers, so they are given initial shelf space. But once you've been granted the shelf space, keeping that position depends on sales volume, not sales growth.

Mr. Bisson: The argument was that they don't get a long enough time on the shelf. They're not able to increase their sales because it's like, “I try the beer once and I tell my friend, and then my friend comes by and the beer is gone.” So I think what they were trying to get at was to extend the amount of time that the beer ends up on the shelf so that you have a fairer chance of developing the market. I agree with Monique that they are already implementing a growth-based shelf space policy, as far as allowing them to get on. The bigger issue seems to be giving them enough time to give exposure to their product. That's one of the things that we need to deal with.

Ms. Smith: I don't have a problem with 17. I have more of a problem with 18, so I'll let 17 go.

1130

The Chair: Other comments? Monsieur Bisson, are you okay with just going ahead with 17, then?

Mr. Bisson: Well, I'm not sure it encompasses the other issue—that's what I'm saying—and that there's a way of doing that. When you say, “Implement a growth-based shelf space policy,” what does that mean? Does that mean to say we're recommending to the LCBO that they give them a longer amount of time on the shelf to expose their product so they can increase their sales, or are we just saying, “We're going to make more shelf space available in order to get your beer on, but it's going to be on for a limited amount of time, and if you don't increase your sales, it's off and somebody else comes on”? We're right back to where we started from.

Mr. Tascona: I think that's number 18, Gilles.

Mr. Bisson: I'm not sure it's 18, no.

Mr. Tascona: I think it encompasses it.

The Chair: To Gilles's point, I think it's the former. I think the microbrewers wanted more time on the shelf to allow their product to sell, that the current turn policy is too tight.

Mr. Bisson: I'm saying we need to get at the time issue. That's all I'm saying.

Mr. Tascona: Yeah, but that's what 18 is about.

Mr. Bisson: Well, “Employ every possible means to carry, display and promote craft brewery products” doesn't do anything about time.

Mr. Tascona: It does. I think it's broad enough to encompass—

Ms. Smith: It's broad enough to encompass just about anything.

The Chair: I wonder if we could just simply modify 17 to hit Monsieur Bisson's point: "Implement a growth-based shelf space policy which allows craft brewers"—

Mr. Bisson:—"a sufficient amount of time to get exposure." That actually could replace 18. I wouldn't be bad with that, because it gets to what they said. What they basically said was, "We don't have so much of a problem getting our beer on the shelf," if I remember correctly. The bigger issue is leaving it there long enough to get the exposure in order to get the customers to stay on the shelf and expand their space on the shelf. It can't stay on long enough to build a market. That was their problem.

Mr. Tascona: Yeah, but how long, in terms of safety, too, do you allow a beer to be on the shelf?

Mr. Bisson: Well, that is a very good point.

Mr. Tascona: Because if the product's not moving, that's a major issue.

Ms. Hull: I don't think the LCBO has problems selling 50 bottles of beer. I think it's a question of restocking the same beer a number of times in order to give the product a chance to grow.

Mr. Bisson: Chair, if I may, what I'm recommending is a hybrid of 17 and 18, one recommendation that would replace 17 and 18, that says, "We recommend that a growth-based shelf policy be developed that includes a sufficient amount of time to get into the market." I'd be all right. That would encompass both as far as I'm concerned.

The Chair: So we're getting the gist of it, right? We're trying to get at the turn issue. The Craft Brewers were concerned that the turns were too tight, and therefore their products were not given sufficient time to capture market. So why don't we work on the exact phrasing of that? We'll come back. It seems like we have a consensus on the general point—right?—which is to give craft breweries a bit more time to develop their market—

Mr. Bisson: And within the proper shelf time, as Mr. Tascona has properly pointed out. We're not going to put that in, but I appreciate his comments.

The Chair: I don't think that will be an issue. So we'll try to get the proper language around that, but it seems like we have a consensus around allowing more time on the shelves.

Mr. Tascona: It's not an issue in Welland.

The Chair: "18. Employ every possible means to carry, display and promote craft brewery products." This is a very general recommendation: "every possible means."

Mr. Bisson: No, no, but my recommendation—

Mr. Tascona: We did that. We're on 19.

Mr. Bisson: We're saying we're going to redo 17 and 18 to encompass what we talked about, and it covers both.

Ms. Smith: Just so that policy folks know, we were going to recommend "enhanced measures to carry, display and promote." We don't have a problem with the

general gist of it, but the "every possible means" could get extreme.

The Chair: So why don't we do that: "enhanced measures to carry, display and promote craft brewery products"?

Mr. Tascona: That sounds good.

The Chair: It's a nice, happy apple pie with craft brewery and some nice Ontario cheese.

Ms. Smith: That's why we're here.

The Chair: Good. So we're happy on 18. We will say "enhanced measures to carry, display and promote craft brewery products." We will come back with some language around the specific growth-based shelf space issue.

"19. Give microbrewers a rebate on their service fees, perhaps scaled to sales volumes." Carrie, do you have some background on that one?

Mr. Hull: The presentation wasn't that detailed. It was basically the claim that it cost microbrewers an extra \$5 per case of beer to sell their products through the LCBO. They've argued that they have quite small margins as small producers and that this is an onerous charge. This is according to the Ontario Craft Brewers. That's the only information that we've really been given on that.

The Chair: Any comments on 19?

Ms. Smith: I just don't want to get involved in the day-to-day management of running the LCBO. Through 17 and 18 we're talking about enhancing, and how we can display and promote. I think the LCBO is already doing a great job in assisting our craft brewers. I just think that this is really delving into the day-to-day operations. Also, there's a question of competition, and I don't want to get into competition law because it's way too tedious. But when we're looking at favouring one sector of breweries, favouring some breweries over others, I think they're day-to-day operations.

The Chair: I'm hearing a no on 19 from Ms. Smith. Any other comments on 19?

Mr. Bisson: Yes. I'm probably going to take a bit of a different approach. First of all, I think we all agree that we want to enhance the opportunities to develop our microbrewery industry. I think we're all there. The issue is, when they sell their product through Brewers Retail, it's pretty hard to get the showcasing of their product, because those Brewers Retails showcase their own product—Labatt or whatever—right? The argument was, "We see the LCBO as a good way to market our product. The problem, however, is that we're not making enough money doing it." So if you increase your shelf space, you're on the shelf longer and you sell more beer, at the end of the day, if you're not making as much money as you can to keep your doors open, it doesn't resolve their problem. Their problem is that they're not making enough money per case sold.

I think it would probably be a good thing to get a little bit more information on that, at the very least, so we understand what the economics of it are and why it is there's a \$5 difference between the LCBO markup and

the markup at the Brewers Retail. If the Brewers Retail can do it for \$5 less, why can't the LCBO?

The Chair: There's no problem with bringing some information back on the \$5 point. I'm not hearing support for 19, however. That's a very specific recommendation. Let me throw this out there: Is there any support for a general notion that the LCBO should reduce its fees on microbrewers to help enhance their market share?

Mr. Bisson: My problem is this, and I guess I didn't explain it well enough: I'm not clear on what profit microbrewers make in selling their product through the LCBO as compared to Brewers Retail. What is, for example, their service fee? Is that a rental charge for putting their beer on the shelf? I don't understand how that works. What I would like to have is something that gives us a clearer understanding about what the charges are and what the profit is versus doing it through the Brewers Retail, so we can take a look at it and say, "Do we want to make a recommendation?" It seems to me, if you increase your sales and you're still not making money, you're not any further ahead.

The Chair: We don't need to belabour this point. I tell you what, why don't we come back to committee with an indication of the fees that are charged to microbrewers to have their products on the shelves of the LCBO versus the Brewers Retail and versus their own retail stores?

Mr. Bisson: And what's their average markup per 24 based on the LCBO versus Brewers Retail?

The Chair: The LCBO should produce that quite easily in terms of how they set their fees for microbrewers, right? Some will be based on price and some will be based on volume, I would think. So why don't we come back, and if the committee feels like making any more recommendations in that area, we will. I don't see any harm in getting that information.

Let me be clear, microbrewers can sell their product in three places: They can sell it through the LCBO, through the Beer Store or they're each allowed to sell it at their own store; they have one licence each at their manufacturing site. So we'll bring that back, and then we can decide if we want to recommend that those fees go up, go down, stay the same, or that there's no recommendation.

"Social responsibility."

Ms. Hull: LCBO officials provided the committee with details about the organization's social responsibility programs and partnerships. The LCBO maintains a successful challenge and refusal program and also forges partnerships with organizations such as MADD, with which it develops advertising campaigns. The LCBO indicated to us that it measures the success of these campaigns by asking focus group participants whether they would exercise greater care with respect to consuming alcohol after viewing the ads, and the LCBO has indicated that it always gets a very positive response to their ads following this method.

1140

The committee questioned LCBO officials about the organization's monitoring of drinking and driving deaths

and injuries and other alcohol-related deaths and illnesses. Officials at the LCBO revealed that it obtains these data from other organizations and employs them in developing social responsibility programs. The officials agreed that trends in alcohol-related deaths and injuries would be the best measure of the effectiveness of their programs. However, the board was unable to provide information about these trends at the time.

Since then, we've received some information from the LCBO. I think it was from a youth program regarding drugs and alcohol and just sort of general social agency information about drug and alcohol statistics.

The committee may wish to make the following recommendation, and this was raised in the context of the committee's own discussions. This is recommendation 20: "Measure the effectiveness of LCBO social responsibility programs by explicitly correlating them to trends related to drinking and driving deaths and injuries and other alcohol-related deaths and illnesses."

The Chair: Comments on number 20?

Ms. Smith: I assume we're going to take out the line that they were unable to provide us with information, and we'll do a bit of a summary of what information they did provide us?

The Chair: Sure. We can summarize the LCBO's response and add that to their report at that point.

Ms. Smith: Otherwise, I don't have a problem with the recommendation. I'm just asking for more information.

Mr. Bisson: I don't have a problem either. I'm just trying to figure out how you do that.

Ms. Smith: It's not an easy task.

The Chair: And demand that they report back in two weeks' time.

Ms. Smith: They'll have a bit of a problem with the second part.

The Chair: All right. Ms. Smith's point will include the LCBO's response, where footnote 6 is. So we'll have the updated statistics in our report.

Any other comments on 20? It looks like it's supported. Very good. Number 20 will go through as a committee recommendation.

Ms. Hull: Also, in the context of the committee's own discussion, LCBO officials were asked about their co-operation with the Ontario Provincial Police and First Nations' police services in order to address the issue of bootlegging LCBO alcohol into dry communities. Individuals are known to purchase extremely large quantities of alcohol at LCBO outlets for resale in these communities. The LCBO admitted that this was a long-standing problem and that it was actively involved in discussions aimed at its resolution. While legislative options are being considered, the LCBO was unable to propose solutions at this time.

The committee may wish to make the following recommendation: "21. Move more quickly to resolve the long-standing problem of the sale of large quantities of alcohol to known bootleggers, in partnership with the

Ontario Provincial Police and First Nations' police services."

The Chair: Comments on number 21?

Mr. Bisson: I'm just mulling that over. "Move more quickly"; I don't know.

The Chair: I would take out "move more quickly to resolve" and say, "Address the long-standing problem."

Mr. Bisson: The issue I raised with them is that if somebody drives up to the front of the liquor store with a pickup truck and says, "Give me 15 cases of whisky"—or 25 cases of beer—that's a pretty good indication that that's not for individual consumption, unless they have a permit and they're going to a dance and that kind of stuff.

That's the problem. They know who the known bootleggers are. They're buying large amounts of alcohol, and it seems to me that part of the social responsibility of the LCBO should be, "Hang on a second. Where are you going with 20 cases of whisky? You don't have a permit to go and hold a dance." It should trigger something by the salespeople, like the clerk at the counter, and it seems to me they should institute some sort of policy that deals with that.

The Chair: There seems to be an acknowledgement by the LCBO that this is a long-standing problem.

Mr. Bisson: That means that it's never been dealt with.

The Chair: A fair point. I think it seems obvious too that there are no easy solutions.

Mr. Bisson: I understand that there are issues of privacy, and you can't refuse to sell somebody alcohol because they're asking for three bottles versus two. I understand all that. But it seems to me that part of the solution is that we need to have the LCBO work more closely with NAPS or the OPP, depending on the case, and with the local communities, because we know who the bootleggers are. There needs to be a mechanism to involve the police authorities in order to have the proper resources to monitor the activities of the individuals and catch them in the act. That's how you deal with the bootleggers.

The other side of it is—and I've seen it—that they walk into the store, and the pickup truck is there and it's being hauled out. There's a winter road that only runs two and a half months a year. Somebody drives up with a pickup truck and asks for bottles and bottles of mickeys of whisky, and you know that's not for a party; that's for bootlegging. It seems to me that should at least trigger the LCBO calling the police, saying, "Just so you know, truck licence number came by to pick up X number of cases of whisky. You may want to watch this guy." There's got to be some sort of mechanism like that. I don't know how you get at that with your recommendations.

Ms. Smith: How about we revise it to read "move to develop a strategy to resolve the long-standing problem in conjunction with," and we've got the OPP and the First Nations' police services?

Mr. Bisson: The LCBO outlet, the First Nations, yes.

The Chair: Happy with that? So it was "move to develop a strategy."

Mr. Bisson: And in fairness to the LCBO, for the record, they did offer to meet any time with the individuals who are interested in that in those communities or wherever. That's something we're actually working to set up.

Ms. Smith: And they have been actively engaged in discussions. They did say that.

The Chair: Why don't we say—I don't know if you guys want to put in a time frame; probably not. It would be a longer debate, but why not? Our resolution will simply be, "The LCBO should develop a strategy to address the long-standing problem" all the way down to "police services" with the current language. So "develop a strategy to address the long-standing problem" etc.

Mr. Bisson: I would want it to include—I didn't read all of it, unfortunately. Oh, it does say First Nations.

The Chair: Yeah, it says OPP and First Nations' police services at the end. Sound good? Very good. Done.

Carrie?

Ms. Hull: We also heard from Mothers Against Drunk Driving, and the CEO of that organization stressed the organization's continued support for the LCBO as a government-controlled alcohol monopoly, citing a World Health Organization study indicating that government monopolies are a key means for controlling alcohol-related harms. MADD also stressed that a public monopoly is able to dedicate a specific percentage of its budget to social responsibility.

MADD made the following recommendation that the committee may wish to consider whether it would like to adopt it as its own:

"22. Increase the percentage of the LCBO's budget devoted to social responsibility, approximately \$2.5 million at present."

For your information, that's less than 1% of net sales, probably about 0.5% of net sales.

The Chair: So there's a general recommendation there, which is simply an increase from the existing level. Members may want to consider giving a specific percentage. So if Carrie's numbers are accurate, 1% would be approximately \$5 million, so doubling. Comments on 22?

Ms. Smith: I don't think we should prescribe anything. If we want to recommend that they increase, we can. I think \$2.5 million is a pretty substantial investment for any charitable organization in the province. Certainly they do a great job, and I'm very supportive of MADD. I'm fine with this recommendation as it's written.

The Chair: Other comments? It will move forward. Ms. DiNovo?

Ms. DiNovo: Just one. Again, here we have a very specific recommendation. In light of Ms. Smith's comments on the last challenge, that recommendations weren't specific enough and that we didn't want to teach the LCBO how to run its own business, I'm just wondering if the language could be loosened up around this; in

other words, a recommendation and perhaps not a specific amount, reflecting this committee's response to other requests to tighten up the language.

Ms. Smith: Sorry, I assumed that the \$2.5 million is what they're getting now, right?

Ms. DiNovo: Oh, it is?

Ms. Smith: So that's why "increase" is fairly general. It's just a nod that we think they're doing great work.

The Chair: So we'll leave the specific total general and we'll just suggest they increase it beyond the \$2.5 million that we understand they're doing now.

Ms. DiNovo: Okay. Thank you, Mr. Chair.

The Chair: Thank you. Okay.

"Board issues."

Ms. Smith: We're fine with recommendation 23.

Mr. Bisson: I'm not so sure I'm fine with it, and it's a little bit my fault. I want to go back and talk to my people, so can we just stand that one down?

The Chair: Absolutely. That should be quick to address. If you want to consult with your caucus members, that's fine.

Mr. Bisson: I just want to get a check.

The Chair: Okay. We'll stand down 23.

"Miscellaneous" is just a summary of other points. We don't have any specific recommendations that come out of that last section, right?

Ms. Hull: This is because there were no recommendations made during the LCBO's presentation of its material. If the committee wishes to draft some recommendations—

The Chair: Here's my view: No more. I had hoped we would concentrate in three areas. I think we really have four in terms of "Small domestic producers," "Social responsibility," "Agency stores" and "Recycling." That's pretty broad, so I don't think we need to get into recommendations surrounding miscellaneous topics. Is there agreement on that?

We're getting close to noon, so I'm going to end our discussion at this point.

First, let me say thanks to the committee members, because this is the first instance in over a decade, so obviously it's going to be a bit of a cumbersome process. I want to thank the clerk and the research team as well for their preparation materials and their own research in these areas.

If members have suggestions—we don't need to do it at committee right now, but offline to me, around the chamber or in the assembly—to make this a smoother process, I'm looking forward to that as well. We do have

our marching orders in terms of reports and additional information to bring back to committee as we consider the LCBO.

I'm planning that we will continue with report writing next Wednesday at 10 a.m. We don't have any scheduled interviews.

Mr. Bisson: Just to be clear, we're going to move to the next agency, to give them time to do this?

The Chair: That would be my view, that we would give research time to consult with the LCBO and give members a fulsome response. So we will proceed with the OLGC. If you have advice for me on the procedure that we follow and if we need to enhance it, I'm willing to hear it outside of committee. I don't need it now.

Ms. Smith: I was actually going to recommend that we proceed to the end of the LCBO, but I understand that it's Thanksgiving weekend and there's a lot of work for our researcher to do, so I'm happy with doing the OLGC next Wednesday.

The Chair: So we agree. We'll start Wednesday at 10 a.m.

Mr. Tascona: We've got the OLGC and then we've got Hydro One—I'm just trying to recall the timelines.

The Chair: The end of November.

Mr. Tascona: The end of November for all three.

The Chair: We've got plenty of time.

Ms. Smith: Perhaps I could recommend that next week we do OLGC, and then the following time we meet we do the final draft of LCBO and OLGC, and then we concentrate on Hydro One. I'm just thinking that if we wait too long to come back to LCBO, we won't necessarily remember what we talked about today.

Mr. Bisson: I agree.

Mr. Tascona: I think we've got to keep something current here. That's my concern.

The Chair: As I said, we do have the holiday weekend and research has a lot of material to follow up on, so we will proceed with the OLGC and then our next item will be back at LCBO/OLGC.

Mr. Bisson: Obviously, if research wants to poll us on something or wants to ask for clarification on this particular report, we can do that at the next meeting.

The Chair: Absolutely.

Again, to be clear, we will start at 10 o'clock next Wednesday with the OLGC, and then we will come back to both LCBO and OLGC and complete those reports before proceeding with Hydro One.

Folks, we are adjourned.

The committee adjourned at 1152.

CONTENTS

Wednesday 4 October 2006

Election of Vice-Chair	A-321
Appointment of subcommittee	A-321
Subcommittee report	A-321
Agency review: Liquor Control Board of Ontario	A-321

STANDING COMMITTEE ON GOVERNMENT AGENCIES

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Ms. Tonia Grannum

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Standing committee on government agencies

Agency Review:
Ontario Lottery and
Gaming Corp.

Comité permanent des organismes gouvernementaux

Examen des organismes
gouvernementaux :
La Société des loteries
et des jeux de l'Ontario

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

Wednesday 11 October 2006

Mercredi 11 octobre 2006

The committee met at 1004 in room 151.

ELECTION OF CHAIR

The Vice-Chair (Ms. Cheri DiNovo): Ladies and gentlemen, honourable members, it is my duty to call upon you to elect a Chair. Are there any nominations?

Mr. Ernie Parsons (Prince Edward–Hastings): I would like to nominate Julia Munro.

The Vice-Chair: Are there any further nominations? There being no further nominations, I declare nominations closed and Mrs. Munro elected Chair of the committee. Welcome.

The Chair (Mrs. Julia Munro): Thank you very much.

Mr. Gilles Bisson (Timmins–James Bay): Look at that: You were there just for a minute.

Ms. Cheri DiNovo (Parkdale–High Park): It was glorious while it lasted.

The Chair: Thank you very much, and I'm certainly pleased to be able to join you.

SUBCOMMITTEE REPORT

The Chair: I would ask, first of all, that we have the report of the subcommittee on committee business dated October 5.

Mr. Parsons: I would move adoption.

The Chair: Any questions? All those in favour? Agreed? Agreed.

AGENCY REVIEW

ONTARIO LOTTERY AND
GAMING CORP.

The Chair: Now we're looking at the major part of our business for this morning, the report writing on the agency review. I'd ask you to look at the draft document that you have before you.

Mr. Parsons: Just a question and concern, and I apologize that I was not present last week as you did report writing. I've not been here all that many years, but my experience has been that report writing has always been done in camera and that we could be reasonably freewheeling and open, and debate it.

I'm finding this unusual. I would prefer that it be in camera. I would like to make that suggestion or request—or whether it requires a motion to do it.

Interjection.

Mr. Parsons: I would move a motion that we move in camera and then we can debate it, if necessary.

Mr. Bisson: I totally object. Agency reviews we did, as you know, last week. We did the LCBO and report writing not in camera but in the full committee. There was not in any way, shape or form a difficulty. It is our position that this report writing should be public. We did the hearings. We're not talking about anything other than what was said in the public hearings. It's not as if there's something secret we've got to talk about. I would strenuously object to any motion to move this in camera. In fact, if you try that, we will be in with House leaders pretty damn quick about it. They will make this an issue.

The Chair: Okay. We have a motion on the floor. Any further comments?

Ms. Laurie Scott (Haliburton–Victoria–Brock): With other committees, when there is report writing it usually does go in camera; it's a technical thing. All the government agencies meetings were public—it was open. The reports, the recommendations, are going to be public, I believe.

Mr. Bisson: Not in this committee. I don't have the floor, so—

Ms. Scott: But I don't have a problem with going in camera. That's the end of my discussion.

Mr. Parsons: If I could respond, every committee I've sat on that's done report writing has had public hearings that have been fully open. I fail to see a difference between this process and any other processes employed by the other committees. The public consultations are held and then we discuss, in camera, the public recommendations along with other recommendations that have come. I fail to see any difference between this and any other process.

I don't think we're going to do anything secret, but I think this is an opportunity for some pretty open discussion. There may be things said that we don't ultimately agree with, and I just feel that it would be more productive, perhaps less flamboyant but more productive, to follow the traditional practice of a closed session.

1010

Mr. Bisson: We've done, as I said, the first part of the report writing in public. This is an agency review. I sat

on it the last time we did this. As I recall—and maybe the clerk can clarify—I don't remember going in camera on an agency review—ever.

Ms. Monique M. Smith (Nipissing): Well, we haven't done an agency review in 10 years.

Mr. Bisson: No. I've done an agency review before, in the past and—

The Clerk of the Committee (Ms. Tonia Granum): For report writing, I don't know that. I'd have to check that.

Mr. Bisson: The point being that I object. To say that the only reason we've got to go in camera in an agency review is because somehow it's going to be more flamboyant to be in open committee I think is an insult to all members. I take great offence to that. I think all members come to this place to do their jobs. It ain't about trying to talk to the camera; it's about doing his or her job. I will tell you right now that if you try to use your majority to throw this in camera, it will cost you. There's no way that we're going to stand by and allow you to put this thing in camera.

The Chair: Any further discussion? We'll call for a vote if there's no further discussion.

Mr. Bisson: Recorded vote.

Mr. Parsons: I think I'm going to ask if research could provide us with what the practice was previously when this committee actually reviewed agencies, because it certainly has not happened in my time here.

The Chair: All right.

Mr. Larry Johnston: We'd have to check Hansard for the agency meetings 10 years ago to see. I can't remember one way or the other, to be honest.

Mr. Parsons: I'd like to table my motion if I could, then, withdraw it until we hear back, if you can advise us what the previous practice was.

The Chair: Any further discussion?

Mr. Bisson: I made our point clear.

The Chair: Obviously, then, we are asking for some confirmation on that.

Mr. Parsons: I'm going to ignore the threat. The inference that things are not done here in a flamboyant manner from time to time, I also take as an insult. Sometimes politicians behave as politicians.

The Chair: I would just ask the committee whether there is concern in terms of beginning with the report until we have clarification on the motion that we're looking at.

Mr. Parsons: I think we're prepared to proceed. I'm just wondering if we could ask about any timeline on how long it will take to get that answer.

The Chair: It's being done now.

Mr. Parsons: So we'll know during this meeting.

The Chair: That's right.

Mr. Parsons: Excellent. Thank you.

The Chair: All right. We'll begin looking at the report, page by page. I would ask you, then, if there any issues on page 1, to indicate those that we need to have further discussion on.

Ms. Smith: I just raise the same concern that I did last week. I understand that we've focused in on some issues, but I would still like to see some evidence of the actual first presenters, the OLG representatives, at the beginning, when we do the summary of what the OLG does, and then we can do a summary of what they said and move into the issues.

The Chair: But in terms of page 1—obviously your comment is a general one.

Ms. Smith: Sorry. A lot will get referred back to what we did last week, but last week we also agreed that I could provide the researchers with some of the changes in language, just wording changes that I think are fairly innocuous, and that they would come in the next report so that everyone could see, instead of going page by page, paragraph by paragraph, word by word. I think we agreed last week that that would be appropriate, so I don't have anything on page 1.

The Chair: We'll look at page 2. Seeing none, page 3.

Ms. Smith: Sorry. What we did last time was go by page, and then we'd go by recommendation and actually look at each recommendation.

The Chair: And that's page 3.

Ms. Smith: Oh, I'm running ahead. Sorry.

The Chair: We're looking at page 3 and the possible recommendation. If I could ask research to give us a bit of background in terms of the rationale of this particular recommendation and then discussion from there.

Mr. Johnston: When the agency was here, they spent some time discussing their rebranding exercise and shared with the committee their reasons for doing so, which were basically about enhancing the integrity of the corporation in their minds, to better establish their identity for all of their operations, as well as being able to more effectively market their business.

They were also asked some questions about the cost of the rebranding exercise and about how changing the corporation's identifier from OLGC to OLG was going to accomplish the goals that they had shared with the committee. I think there was no clear answer on that last point.

Finally, the committee asked why the new logo contains only the letters "OLG," and the question was that this might not be identifiable to francophone Canadians, who would be familiar with the old logo, which had the name of the corporation in both English and French. The corporation officials said they would get back to the committee on why the logo is in English only. You can see here on page 3 that Chair Michael Gough indicated that "OLG is in fact a bilingual logo, similar to the logo used by the LCBO."

The Chair: I would just draw to your attention as well that you have received a copy of the letter that came with regard to the issue of the translation of the logo.

Ms. Smith: With respect to recommendation 1, actually its tone is fairly negative, and I would just suggest that we change the wording to indicate that the OLG explore ways to include the French translation of its legal name in branding exercises of its new public corporate

identity, which I think more reflects what we'd like them to do, which is to include a French translation of its legal name.

We've heard from the OLG that they believe the OLG logo is a bilingual logo like the LCBO, but I think we could recommend that they explore ways to include a French translation as opposed to reconsidering building its brand, which I don't think is what we recommended. I don't think anybody recommended that.

The Chair: Any further comments?

Ms. Scott: I don't have a problem with what Ms. Smith has mentioned.

Ms. DiNovo: The same here.

Ms. Smith: Do you want the language now? Or I can provide it to Larry.

Mr. Johnston: I'll get that to you.

Ms. Smith: Okay. Thanks.

The Chair: Moving on, we have another recommendation on page 3 as well. Possibly, again, we could just have a rationale here.

Mr. Johnston: The second issue that the committee chose to focus on was Internet gaming. The corporation indicated that in terms of revenue, Internet gaming has not been a challenge, but they are concerned about the reputational risk to the corporation. They want to make sure that the kinds of things that happen with Internet gaming do not reflect poorly on the gaming industry as a whole and therefore on the OLGC. They indicated some problems in terms of jurisdiction, in terms of who has responsibility for policing Internet gaming and about the range of possible solutions that exist, from regulating and licensing to banning outright.

So this recommendation is, "That representatives of the OLGC meet with officials at both levels of government, provincial and federal, including members of the law enforcement community, to examine possible approaches to policing Internet gaming."

1020

Ms. Smith: We don't have a problem with recommendation number 2. I would just ask that we look back in the first paragraph—and this is one of the only places where I'll actually talk about wording. "Asked about the impact of Internet gaming, officials suggested that currently Internet gaming does not"—and right now it says "present an economic risk," when I think the actual evidence in Hansard is "represent a significant economic impact." So if we could just reflect what the evidence was. It might sound like parsing hairs, but there is a distinction between "economic risk" and "economic impact." If we could just change it to "Internet gaming does not present a significant economic impact" as opposed to "present an economic risk."

The Chair: Any other comments?

I've just been informed that this committee has a history of having both opened and closed report writing. It would seem that it is up to the individual committee of the day to establish what they would like to do.

Mr. Parsons: I believe I will make the motion again that the committee move in camera.

Ms. DiNovo: I think it's pretty clear that we are opposed to the in camera holding of these meetings and that we would like these to be transparent and public.

The Chair: Any further comments?

Mr. Parsons: I'm a multi-faceted individual. I've just reconsidered.

Ms. Smith: Let's refer to the House leaders.

Mr. Parsons: Let's refer to the House leaders. I withdraw it again, and I would ask that this matter be referred to the House leaders for a decision.

The Chair: Thank you very much.

Ms. DiNovo: Sounds good to me.

The Chair: We'll carry on. I believe we're now on page 4, and I'd entertain—

Ms. DiNovo: Could I just ask a question? Sorry, Madam Chair.

The Chair: Certainly.

Ms. DiNovo: The recommendation on page 3, just as a point of information, how would that happen? It's asking for meetings "with officials at both levels of government, provincial and federal" and "members of the law enforcement community." When and how would that occur?

Ms. Smith: I think we did hear evidence that the OLGC does meet, obviously, with the provincial level of government and with law enforcement agencies. There was some reference at some point that they do meet with them already. This is a recommendation that they do that. I think it would be in their normal course of business to find those opportunities and to move that forward.

Ms. DiNovo: But it wouldn't come back here?

Ms. Smith: No.

The Chair: Any further comments or questions?

All right. We'll look at page 4, and if there are no questions on the text, I would just ask, then, that we look at the rationale behind recommendation 3.

Mr. Johnston: The Canadian Gaming Association was asked whether it supported Bill 60, Mr. Leal's private member's bill, which would "prohibit the advertising of website addresses of Internet gaming businesses unless the person doing the advertising believes in good faith that the Internet gaming business has been properly authorized to operate and is in fact being operated in accordance with Ontario and Canadian law."

The association expressed its support for the legislation, so the possible recommendation that is provided to you is that the government take steps to ensure the swift passage of Bill 60, the Consumer Protection Amendment Act (Internet Gaming Advertising), 2006.

The Chair: Any comments or questions?

Ms. Smith: We're fine with recommendation 3.

The Chair: Any others? All right. We'll move on, then, to page 5. Any concerns with—

Ms. Smith: I'm sorry. There's a recommendation 4.

The Chair: Oh, sorry, I missed that. Going back to page 4 and recommendation 4, Mr. Johnston.

Ms. Smith: I just had a comment on it. Do you want Larry to speak first, and then I'll comment?

The Chair: All right.

Mr. Johnston: This is the first of several recommendations in a lengthy section talking about responsible gaming or problem gambling, which I would say was the major focus of the discussion in the hearings.

In this case, the corporation has taken the step of developing and adopting a code of conduct and providing extensive training, developed in concert with the Centre for Addiction and Mental Health, for all 8,000 of its employees. However, as described by the OLGC officials, this would appear to exclude the employees at the four commercial casinos who are not direct employees of the OLGC and constitute the equivalent of approximately 12,000 full-time positions. Therefore, the possible recommendation to consider is, "That the OLGC require operators of its commercial casinos to provide the same responsible gaming/problem gambling training to their employees that the OLGC has provided to its employees."

Ms. Smith: I think there was some evidence to indicate that the OLGC is working with the private operators already, so I would like to change the language to "work with" or "continue to work with."

I also think that providing "responsible gaming/problem gambling training to their employees" is a bit broad. I don't think people who work in the kitchen necessarily need to have that training, so "to the appropriate employees" would be helpful.

The Chair: Any further comments? All right. We'll take that under advisement, and then we can move on.

We're looking at page 5 and the recommendation on page 6, which is possible recommendation 5.

Mr. Johnston: One of the suggestions that Dr. Williams made to committee was that the senior officials in the OLGC came primarily from business, legal and other backgrounds that may not be familiar with social scientific research techniques and other methodologies that are relevant to diagnosing and treating addictive behaviours. He suggested that this be considered in terms of hiring and appointing members to the board etc. So the possible recommendation that's provided here—it's probably not worded quite the way it should be—is, "Provide opportunities for senior OLGC management (and its board members) to become familiar with social scientific research techniques and methodology relevant to the diagnosis and treatment of addictive behaviours."

Ms. Smith: Let me just put on the record that I have some problem with most of Dr. Williams's evidence. As some of the members will remember, it was quite an interesting presentation. We haven't hit the hot spots for me yet, but we will be, and I'm just letting you know. I also think that there should be some proviso language around some of the evidence that he gave, because if you go to the transcript and look at what some of my colleagues would refer to as the cross-examination of Dr. Williams, there was more evidence given later in the piece that I think might qualify some of the evidence that he gave earlier in his submissions.

However, with respect to recommendation 5, I would just change it to "continue to provide," because we did

hear evidence from the OLG that they do provide their senior management and board members with information about research on treatment and behaviours, that they are briefed on that and that there is an MOU existing with agencies providing that kind of information. So "continue to provide" would be my change there.

The Chair: Any other comments or questions?

Going to the bottom of page 6, we're looking at recommendation 6.

Mr. Johnston: One of Dr. Williams's recommendations was that there be more effective casino self-exclusion policies, and he recommended that patrons entering gambling facilities be required to show identification. OLGC officials were asked about the practicality of this and suggested it wasn't practical. So possible recommendation 6 is, "That the OLGC investigate the experience of other jurisdictions (such as Illinois and some European countries) in requiring gambling patrons to produce ID upon entering a facility."

The Chair: Comments? Ms. Smith?

Ms. Smith: You're just presuming that I have a comment on this one. Actually, we're fine with this. They can investigate and look into it.

The Chair: Any other comments?

Let's look at page 7. We have two recommendations to look at there, assuming there is no concern over the actual text. Seeing none, Mr. Johnston, recommendation 7.
1030

Mr. Johnston: Perhaps one of Dr. Williams's more controversial observations was that there might be a portion of OLGC front-line staff who are themselves problem gamblers or at risk of becoming problem gamblers. Therefore, two possible recommendations:

"Screen all front-line service providers in casinos and slots-at-racetracks to identify and offer counselling to problem gamblers.

"Make screening for problem gambling a part of any hiring process for front-line service providers at OLGC facilities."

The Chair: Any comments?

Ms. Smith: This would be the area that I had some concerns on. Dr. Williams, later in his evidence, in his report, did provide us with the actual—

Ms. Scott: Research?

Ms. Smith: Well, he did provide us with the basis of the research, which was his grad student's paper on the experience of 32 of her friends in a gaming facility. I believe that was a maybe somewhat jaundiced view of what he said, but it was basically what he said.

I have a problem with the paragraph above the possible recommendations. When we say, "He explained the inferential basis for his conclusions relating to gaming in Ontario, in other words, consistent evidence of something occurring in other similar environments is used to draw conclusions about what happens here," we seem to have lost the grad student paper reference and the 32 people assessed. I'd like that included so that we have a sense of what it is he is basing his assumptions on.

As far as making “screening for problem gambling a part of any hiring process,” we discussed last week as well in the committee that we can’t direct the OLG on how to run its business. We think we could suggest that they investigate means of screening or the possibility of screening for problems, so that we direct them to at least look at the issue, but I don’t know that we can recommend that they screen all front-line service providers.

Ms. DiNovo: Again, not hearing the original evidence, I would still wonder how one would screen for problem gambling. What does that look like? I wonder what that process would look like in terms of hiring of potential staff. I wonder if there’s any more information on the techniques employed or how you would track this down, because I could see some problems in that area, depending on what was used.

Mr. John Wilkinson (Perth–Middlesex): I agree with Ms. DiNovo. I think my colleague Ms. Smith has it right. I think if we make a recommendation, it should basically look at the possibility. I don’t think this committee should be telling them to get into an area where they have a responsibility as a board. I think we can flag it for the board through this report. But it raises a lot of questions, and we should say that this is an issue that you need to be addressing as a board, not that somehow we have figured out, given the evidence that we heard, that there is a way of doing it. I think Ms. Smith is right that the direction should be about the possibility of screening and not a direction on something that we don’t even know if they can actually do.

The Chair: I think Mr. Johnston can give us some clarification.

Mr. Johnston: Just in respect to Ms. DiNovo’s point, there was a discussion of the use of a problem gambling index that has been developed by, I think, CAMH, but I’m not sure. It’s basically a questionnaire that asks people about their behaviours and it provides information.

The other point of clarification I just wanted to add was that in the Hansard, Dr. Williams does suggest that in addition to his graduate student’s study, there were studies in the US which came to similar conclusions. I think that’s partly what’s reflected in the wording that exists now.

Ms. DiNovo: It seems to me that if there’s such an index, this recommendation is so general as to be irrelevant or unnecessary. If we can’t point to what it is that we want them to do or suggest that they do, why are we making it? If we can’t suggest what we’re asking them to do, then we shouldn’t have it in as a recommendation at all. That’s my only concern.

Again, I hear that people have not been convinced based on the evidence, and more to the point, that we can’t suggest to them how to run their business. Yet at the same time, we’re making a recommendation to “screen all front-line service providers” without saying how or in what way they would do this. I’m just wondering about the necessity of this entire recommendation as a result of some of the concerns.

Mr. Wilkinson: I suppose if someone does come before the committee and testifies on the record that they believe, given the evidence they presented, that there is a problem, I think it is incumbent upon us not to ignore that. That would probably be a mistake. I think what we need to do as a committee is give guidance to them. I would say the allegations are disturbing, to think that people who are problem gamblers are actually the holders of the keys at the front line. As a member, I would find that disturbing. I don’t want to jump to conclusions, though, because I don’t think the evidence presented has convinced all of us about the seriousness of the problem. So I think it is important for us to address it and change the wording, as Ms. Smith said, about the possibility of that.

Just thinking, as a former employer, about the HR implications of having a test that is recommended, that is applied to all current and proposed employees, and coming in and saying, “We’re going to have this test. We’ve decided to do it,” there are a lot of human resource implications to go down this path. I just think we need to flag it for the board. I hear your point that we can’t really give them direction, but I think that’s the point. It has been raised to us and we can’t give them direction, but to ignore it I think would probably not be the best as well, because then we would have discounted the evidence. So I’d be concerned about taking the recommendation out, though I’m comfortable with the amendment.

Ms. Scott: I agree we have to put the recommendation in. I think that Ms. Smith is correct. We need to put into the preamble the research that was done and then we need to red-flag it so they will address it. They were present for the whole hearings, and they did come back and acknowledge this presentation by Dr. Williams. So I think that we can make the recommendation, put it as “look at ways,” so it just flags it for them, but do give the information on where his research was based. So I’m fine.

The Chair: Any further comments?

Ms. DiNovo: I’d be happy with that.

The Chair: All right.

Ms. Smith: So I’ll give you that language.

The Chair: Can I ask—this is just a housekeeping sort of thing in terms of the committee—that when you offer to do that, it shows up in the next draft as something where everyone can see what was there and what changed?

Interjection.

The Chair: Okay. That’s fine. It was just for clarification.

We’re finished with page 7. If you look at the top of page 8, we have possible recommendation 9.

Mr. Johnston: Much of the discussion around problem gambling was about two slightly different things. One was the responsible gaming message, which is about creating good gaming habits and encouraging responsibility. The other issue is about treatment, which is when it’s appropriate to intervene and offer counselling or

treatment to those whose behaviour has become addictive or irresponsible. The corporation, in addition to developing its responsible gaming messaging, is piloting, in both Windsor and Niagara Falls, consumer information centres which make information available on site about where people can get help and how. These are kiosks staffed by the employees of the Responsible Gambling Council, and they're going to be assessed over the next 12 to 24 months. According to one OLGC official, "Our core competency is about operating gaming enterprises. It's not about counselling and referral services. But we recognize that that expertise exists." Those with that expertise are CAMH, the Ontario Problem Gambling Research Centre and the Ontario gaming hotline.

The recommendation at the top of page 8 is, "That the OLGC continue to work with partners in the addiction research and treatment community to make available on-site information and counselling services at all its gaming facilities."

1040

The Chair: Any comments?

Ms. Smith: As Larry just outlined, there is a pilot project going on in Windsor and Niagara, and it's outlined on page 7 of the report. The pilot project will be assessed over the next 12 to 24 months, so on that basis, I'd like to change this recommendation to read, "That the OLGC continue to work with partners in the addiction research and treatment community to study the results of the current pilot project and consider making available on-site information and counselling services at all its gaming facilities based on that study."

I just think it's a bit premature to say that we make it available everywhere when we don't know if the pilot project is going to be successful.

Ms. Scott: That's fine. I have no problem with that.

Ms. DiNovo: I'm hearing Ms. Smith's concerns, but don't we still actually want to make available on-site information, independent of whatever the results are from this pilot project study? I mean we'd always want to have on-site information, would we not?

Ms. Smith: I can't remember if we heard evidence that there's on-site information available—I think there is—about problem gambling. I think we've heard that, but maybe Larry could just clarify that? But the counselling services are part of this pilot project, so I think it's a little premature to say that we should have everywhere until we know it's having an impact.

Larry, maybe you could confirm that they do have information available, which I believe we heard that they do.

Mr. Johnston: I believe we did hear that. I think the difference here is that we actually have a kiosk, which is a dedicated centre in the facility. We don't know where the information may be kept in other facilities or in what kind of display it's provided etc. I think that was the point of being more intentional about providing the information and the services in each location.

Ms. Smith: Right. So maybe, Ms. DiNovo, we could change this to read, "That the OLGC continue to work

with partners in the addiction research and treatment community to continue to make available on-site information and to study the results of the current pilot project and consider making available on-site information and counselling services." Are you okay with that?

Ms. DiNovo: Yes. That sounds good.

Ms. Smith: Laurie, are you okay with that?

Ms. Scott: Yes, that's fine.

The Chair: All right. Any further comments?

We'll go to page 9 and possible recommendation 10.

Mr. Johnston: An area of some controversy in the testimony was the extent of problem gambling. However, when you look at some of the testimony, it appears to me that there's not such a large gap between what Dr. Williams is saying and what the Canadian Gaming Association, on the other hand, is saying. They each seem to acknowledge that there is about a 5% portion of the gaming patrons who are at moderate to high risk of problem gambling.

We were also told about the percentage of revenue that is attributed to problem gamblers, and I took the liberty of doing a calculation to suggest that what that represents averages out to about \$6,300 for each moderate to severe problem gambler, or about \$500 a month. I'll just allow committee members to think about whether that seems high, unreasonable or low.

At the end, it seems to me that the OLGC, its industry partners and the Ontario Problem Gambling Research Centre all expressed concern about dealing with problem gambling and developing responsible gaming practices. So the possible recommendation 10 is, "That the OLGC and its partners work with the OPGRC to eliminate problem gambling altogether, adopting a zero-tolerance policy similar to the treatment of drinking and driving."

The Chair: Comments?

Ms. Smith: I have a whole lot of problems with this, including the fact that at one point, when I asked Dr. Williams about his 35% assessment, he said, "I'm not hanging my hat on 35%. What I am hanging my hat on is, it is the best estimate we have right now, and it adds to converging lines of evidence that a significant proportion of the gaming revenue in this province"—and then, surprisingly, I cut him off. Again, it's all about Dr. Williams and his evidence, and I don't really agree with the assessment that's set out in page 9. I don't have any actual edits right now, but if it's okay, I think we should take a look at it again on the next round.

I do have an edit on the paragraph above recommendation 10. The estimates given by the OLG are not almost identical to those given by the OPGRC or Dr. Williams. While I would agree that the long-term harm that problem gamblers cause to themselves and others is a significant social cost, I'm not sure that anyone—including Dr. Williams; I may be wrong—in their testimony, compared it to drinking and driving or to any kind of criminal offence.

So I think that the recommendation, by inferring drinking and driving, is a bit over the top and that we should be looking at changing this recommendation to

read, “That the OLGC and its partners continue to work with the OPGRC”—which they’re now doing—“to further reduce problem gambling,” because I think to say that we want to eliminate it altogether, although a lofty goal, is probably not achievable, but we would certainly want them to further reduce and work with partners to explore options for adopting policies that will reduce problem gambling.

The Chair: any further comments or questions?

Ms. Smith: Can I just say that I recognize the drinking-and-driving recommendation is probably about raising awareness and making sure that people understand the impact—I kind of get that notion—but I think making that analogy in a recommendation is not appropriate.

Ms. DiNovo: I agree that that’s a little over the top, the treatment of drinking and driving, since it is a criminal offence and this is, so far, not, but I’d be loath to see a softening of the language. This is a significant social problem, and, although lofty, we do want to see a little bit eliminated. We know it won’t be, but we can ask for it to be.

So I’d like to keep some stronger language in there just so that when we’re recommending this to the people concerned in the industry, they get that we’re serious about it and that the people of Ontario are serious about this. So I would go with taking out the “drinking and driving,” but keep in the “eliminate problem gambling,” and take out “altogether,” but let’s set that lofty goal, even though perhaps we won’t achieve it. In fact, we know we won’t achieve it, but let’s still set it.

The Chair: So you’re suggesting that we stay with “eliminate” as opposed to—

Ms. DiNovo: With stronger language. Take out the “drinking and driving,” but keep the stronger language.

Ms. Scott: I agree. I think that we can keep the stronger language, take out the “drinking and driving” and the “zero-tolerance,” and have “work to further reduce” instead of “eliminate.” I’d be happy with those changes and that tone.

Ms. Smith: I can even go with “work to eliminate.”

Ms. DiNovo: “Work to eliminate” sounds good.

Ms. Smith: Does that work for everybody?

Ms. Scott: Okay. “Work to eliminate,” but “to eliminate” is way too—

The Chair: All right. Any further comments before we move on, then?

Ms. Smith: Just so we’re all on the same page: “That the OLGC and its partners continue to work to eliminate problem gambling and work with partners to explore options to that end.” Is that okay?

The Chair: Okay? Thank you.

We’ll go, then, to page 10, looking at possible recommendation 11. Mr. Johnston?

Mr. Johnston: The committee heard from Mr. Simpson, who is the CEO of the Ontario Problem Gambling Research Centre, about a pilot project that is under way with the OLGC, which allows the centre to access OLGC information for its research, and establishes a communications protocol for the respective CEOs to resolve

difficulties that are experienced. The joint harm reduction initiative allows the centre to use OLGC data, and I believe this is from the loyalty program, “to identify high-frequency gamblers and test an intervention intended to cause them to self-reflect and, as appropriate, self-refer to a controlled gambling treatment program.”

This is consistent with one of the recommendations by Dr. Williams, above, that the player reward program be used to identify individuals at risk for problem gambling.

According to the OPGRC, the OLG board has yet to approve this harm reduction initiative. So possible recommendation 11 is, “That the OLGC board give its approval to the joint harm reduction initiative being developed with the OPGRC to identify high-frequency gamblers and test an intervention designed to encourage self-referral to a treatment program.”

1050

The Chair: Comments?

Ms. Smith: I think that this is a bit too directive, given our position as the committee. I understand that the OPGRC would want us to recommend that the others agree. I think we could encourage the OLGC board to support the joint harm reduction initiative, but to tell it to give its approval or to recommend it give its approval might be a bit strong.

I also point out to the committee that there is an MOU signed between the centre and the corporation and they are already working together; it’s just that they’ve been working towards this particular project. So I think that we should show that we’re encouraging them to give support to it.

Ms. Scott: I’m fine with the word “support.” That’s fine to make that change.

Ms. Smith: Sorry, “encourage” instead of “that the OLGC board”—so “encourage the board to support.” Are you okay with that?

Ms. Scott: Yes, that’s fine.

Ms. DiNovo: Could you read out the whole recommendation, then, with the new wording?

Ms. Smith: Sure. “Encourage the OLGC board to support”—take out “give its approval to”—“the joint harm reduction initiative being developed,” and then the rest.

The Chair: Thank you. We’ll go, then, to the top of page 11 with possible recommendation 12.

Mr. Johnston: This reflects a suggestion by Mr. Simpson that one means to assist the OLGC in making the transition towards taking effective action to reduce the unintended and regrettable harm that accompanies the provision of gambling, that the model of the business plan for the OLGC be modified to reflect a revenue optimization rather than a revenue maximization model. Possible recommendation 12 says, “That the government consider directing the OLGC to adopt a revenue optimization model of operations rather than pursue revenue maximization.”

The Chair: Comments?

Ms. Smith: I just don’t like the language of “revenue optimization” versus “revenue maximization” because I’m not sure everyone understands that. Nor would I

necessarily say that the OLGC is pursuing a revenue maximization policy, because I don't think we heard that evidence from them. This is someone else's assumption of what they're doing.

I would say, though, that this committee could recommend that the government consider directing the OLGC to continue to generate revenue in a socially responsible manner, which I think gets at the notion of what Mr. Simpson wanted to address. My language would be, "That the government consider directing the OLGC to continue to generate revenue in a socially responsible manner."

Ms. DiNovo: I may or may not agree with Ms. Smith, but I don't think that's the recommendation that we're reading here. Whoever made this recommendation is clearly suggesting a shift, a change in the way they do business. We could reject this recommendation, but I think the rewording is changing it substantively. Again, perhaps that's just a point of clarification.

Ms. Smith: I just note that "Mr. Simpson recommended that the government reduce the pressures on the OLGC to maximize its revenues"—this is his perspective—"and adopt instead, a revenue optimization model which more appropriately balances revenue and harm." So that's why I just figured that "to continue to generate revenue in a socially responsible manner" addresses his harm issue without getting into the more subjective view of how they're generating revenue. But if you want to lose this one altogether, I'm fine with that as well.

Ms. DiNovo: I would be more comfortable with losing it altogether and saying nothing than substantively rewriting it and perhaps pretending it's the same thing. It's not. It's up to the will of this committee whether we lose this, but we are essentially losing it with the rewriting. That's all I'm suggesting.

Ms. Smith: I'm fine with omitting recommendation 12.

Ms. Scott: I don't have a problem with omitting recommendation 12 either.

The Chair: Okay. We'll go down to the bottom of the page, then, to possible recommendation 13.

Mr. Johnston: The corporation was asked about the payout rates on its gambling machines. The response was that slots in Ontario must return a minimum of 85%, but in fact they return an average of about 92%. It was suggested that people are likely to take those winnings and simply play them again. This is known in the industry as "churning." The OLGC response was, "The more people like to play the machines and the longer they're there returning some of those winnings, that's great."

In researching this whole issue of payout rates, I discovered that in other jurisdictions, such as Las Vegas, payout rates for the machines are regularly posted in each casino, which is something that the OLGC has resisted doing for what they say are competitive business reasons. But the whole point is that it gives consumers or patrons more information about what they're engaging in when they use slot machines. We did have evidence at the

committee that these machines are the source of the most addictive gambling behaviour. That's why recommendation 13 suggests, "That the OLGC be required to post in each gaming facility, information about the payout rates of its electronic gaming machines."

The Chair: Comments?

Ms. Smith: My understanding is that the posting of payout rates is also seen in some jurisdictions as a way to attract customers. It all depends on how you perceive the payout, whether it's worth your while; some people have a higher or lower tolerance to risk. I think that was part of the reason why they're not posted. I would suggest that instead of requiring them to post—I don't remember anybody actually recommending that we require them to post. Did you ask them that?

Ms. Scott: I was just asking Larry where the recommendation came from. Go ahead, Larry.

Mr. Johnston: Research was asked to investigate these specified issues and come up with recommendations, so that's what we've done.

Ms. Smith: By the subcommittee?

Mr. Johnston: Yes.

Ms. Smith: On posting?

Mr. Johnston: No, no. The subcommittee instructed research on which issues discussed before the committee would be the focus of the report. Research asked the subcommittee if members would provide research with recommendations, and research was instructed to come up with recommendations on the issues that were identified. In some cases, we've been able to provide recommendations from stakeholders, such as Dr. Williams and Mr. Simpson. In some cases, questioning went down certain avenues and nobody provided a recommendation to the committee. So research has offered a possible recommendation for your consideration.

Ms. Smith: But who actually discussed posting?

Mr. Johnston: No one discussed posting. The payout rates were discussed.

Ms. Smith: Okay.

Interjection.

The Chair: Just a moment. I think Ms. DiNovo is next.

Ms. DiNovo: When I read this—"Return a minimum of 85%, but in fact, return an average of 'about 92%,'"—that information in and of itself is pretty misleading to somebody playing slots. If that was the information that was being posted, it would make one think that you're getting 85% to 92% of your money back when playing slots, which is clearly not the case for most slot players. It seems to me that being required to post in each gaming facility—I can see the way that could be done as an advertisement to actually encourage people to gamble rather than as a cautionary method; recommendation 13, which we're not up to yet, certainly makes that point a little stronger. It seems to me this recommendation, although it has good intent, might not have that actual result, so I would be as happy to put this on the sidelines myself.

1100

Ms. Smith: Not to confuse matters, but can I suggest another alternative? And you can see what you think, since this isn't coming from anyone in particular. What I was thinking was, "make available information on payouts," so that if you were in a casino and you wanted to know what the payout is on these things, you could go to the cashier or somewhere, and that would be available, as opposed to posting, which I think does cut both ways: It can be an encouragement, or it can be a deterrent. But if you wanted to know, then you could get that information. We could recommend that they make it available.

The Chair: I would just interject here that if you look at the text immediately above it, it does say that the casinos in the US are commonly required to provide information. It doesn't say "post."

Ms. Smith: Yes, I noticed that earlier. That's why I thought "providing information" might be more helpful. We also wanted to see in that paragraph that some jurisdictions use the advertisement of payouts to attract customers, and not because they're required to do so, because we think that also is the case in some jurisdictions.

The Chair: Which goes to your earlier point, obviously, that it could certainly then be something that would encourage people, in fact.

Ms. DiNovo: So what I'm hearing is that the OLGC be required to provide information on the payout, rather than to post information. I would be comfortable with that.

The Chair: Further comment? All right.

We're looking, then, at page 12 and possible recommendation 13.

Mr. Johnson: I apologize. This is the second possible recommendation 13. The paragraph before explains the rationale for this, and it again goes to the question of informed consumers at gaming facilities. The recommendation is, "That the OLGC be required to post in each slots facility information about the more commonly held myths about electronic gaming machines."

The Chair: Any comments?

Ms. Smith: Again, I would change it to say, "explore the value of posting," as opposed to require them to post, because I'm not sure that there's been any evidence that shows that that helps or doesn't help.

The Chair: Would you just repeat your suggestion there, please?

Ms. Smith: "That the OLGC explore the value of posting in each slots facility information about the more commonly held myths...."

The Chair: Any further comments? Thank you.

We'll look at possible recommendation 14 on page 12.

Mr. Johnson: The committee asked OLG officials whether they used any gimmicks to keep people playing slots, and officials said they reiterated their corporate strategy, to provide a great entertainment experience and good value. Most of the revenue, they indicated, is generated by the lower-denomination machines. However, research did discover that one of OLGC's strategic goals

for fiscal 2007 is to accelerate the ticket-in ticket-out initiative, which I think was referred to in the hearings across the province in another context. These TITO-enabled machines offer players "a better gaming experience, as they don't have to wait for manual coin refills, handle large buckets of coins, or wait long times for jackpot payoffs." In other words, they don't have to deal with cash.

At the same time, Mr. Rutsey of the Canadian Gaming Association told the committee that there's a decreasing interest worldwide in older gaming products and that gaming's growth areas are in social entertainment-based activities that can provide more interactivity, more skills-based games, and games that groups of friends can play. Therefore, possible recommendation 14 suggests, "That the OLGC be directed to reduce its dependence on slot machine revenues by seeking alternative forms of gaming entertainment."

The Chair: Comments?

Ms. Smith: I just can't believe that Larry is being that directive in his recommendation. I think this really goes into how they run their business. If we want to look at this at all—I would suggest we take this out, but if we're going to leave it in, I would suggest that we say, "That the OLGC be encouraged to explore opportunities for reducing its dependence on slot machine revenues by seeking alternative forms of gaming entertainment."

Ms. Scott: I can agree that "encouraged to explore" is a little bit better—sorry, Larry. I just think it's evolving, and they're looking at different ways of entertaining. I think "encouraged to explore"—I can live with that wording.

Ms. DiNovo: I find it particularly frightening—again, I didn't hear the depositions—that this consumer of slot machines is getting removed farther and farther away from the actual experience of the cost of their gambling. Anyway, just a comment for the record. Thank you.

The Chair: We'll move on, then, to page 13 and possible recommendation 15 at the top.

Mr. Johnston: This is just in response to questions about what the OLGC might do, further strategies for combatting problem gambling or encouraging responsible gaming. It was the view of the industry partners that the OLGC is a world leader in the study, research and treatment of problem gambling, with nothing to learn from the experience of any other jurisdiction. Mr. Simpson suggested there might be some things that have been piloted elsewhere that might be of value to look at. So possible recommendation 15 is, "That the OLGC be commended for the leading position it has taken in promoting responsible gaming, but also be encouraged to continue to learn from the experience and best practices in other jurisdictions."

Ms. Smith: We obviously don't have any problem with recommendation 15. Certainly there are members of this committee from our side who would be more than happy to go to other jurisdictions to determine what is being done there—no, we're fine with recommendation 15.

The Chair: Any further comments by members of the committee?

Ms. Scott: I think Larry has done a good job in summing up the OLG. They are to be commended, so to put it in a recommendation like that, leaving the options open that we should look at other jurisdictions and what they do, is fine. Good job.

The Chair: Fine, thank you very much.

I'd just like to call your attention to the latter part of this, which deals with the other issues. Any questions or comments, any editing that you would like to include in the last part there, "Other issues"? We're looking at pages 13 and on.

Mr. Johnston has a question for you.

Mr. Johnston: As I explained before, the subcommittee directed us to provide recommendations with respect to the corporate branding, Internet gaming, responsible gaming and problem gambling. These last few pages are a summary of the other issues that were discussed before the committee. In the past, the practice has been to include in the report only those issues or topics to which the committee has attached recommendations. If we followed that practice, this portion would not appear in the report. Carrie and I would both appreciate some direction from the committee in terms of final report preparation and whether or not we should be including the other issues that the committee has no recommendations concerning.

Ms. Smith: I actually have no problem with including the other issues. In some ways, it goes to some length to address my concern that some of the things that OLG raised initially weren't being addressed. They are addressed here. Some of them might disappear if you do a summary at the beginning, and I'm fine with that kind of change, but I think a lot of the initiatives that you discuss in the last few pages are important and reflect some of the socially responsible stuff that the OLG is doing and also some of the community initiatives that they're undertaking, which I think are an important part of their business.

Ms. DiNovo: It represents a great deal of hard work. I think we should include it so that people can see the hard work that was done.

Ms. Scott: I have no problem with its inclusion. There was a lot of information on that day, and to summarize it and put in the headlines as research has done is valuable information that we can pass on. That's fine.

The Chair: All right. That concludes the look at this particular draft.

COMMITTEE BUSINESS

The Chair: We'll just take a few moments here to look at what we have scheduled for next week. Next week, on October 18, we have one intended appointment scheduled: Suzanne Gilbert, to the Child and Family Services Review Board/Custody Review Board. We were also able to review the revised and updated draft report on the LCBO. So that's the plan for next week. I am open to any other suggestions that the committee might have.

Ms. Smith: Given that we didn't have a lot of changes to today's report—just wording changes to some of the recommendations, and I'll make sure that I get you any of the other changes that I had just on wording—if we could get the drafts of both for next week, we might be able to wrap up both, because I don't know that there's anything too controversial. Since we made such good time today, maybe we'll be able to get through the second draft of both next week and then we'd be clear sailing for Hydro One.

Ms. Scott: If research can do it—

Mr. Johnston: Again, can I just ask for clarification? We had discussed a final report that consisted of three portions, one being an abbreviated backgrounder on the agency, which you received prior to the hearings, followed by a summary of what the agency said before the committee—your concern, Monique—and finally, the section on issues, which we have done last week for the LCBO and this week for OLG. Do you wish the entire report in draft form for next week, all three portions?

Ms. Smith: If we can, and if that's not doable, then the entire report for the LCBO would be good, so that we could at least kind of finalize one and move on. So either the final report of both or—

The Chair: Is that something that is realistic?

Mr. Johnston: Yes.

Ms. Smith: Great.

The Chair: Following on that, October 25 would be Hydro One, just for clarification.

If there are no other issues, then we will stand adjourned.

The committee adjourned at 1112.

CONTENTS

Wednesday 11 October 2006

Election of Chair	A-341
Subcommittee report	A-341
Agency review: Ontario Lottery and Gaming Corp.	A-341
Committee business	A-350

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A-21

A-21

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Standing committee on government agencies

Intended appointments

Agency Review:
Liquor Control Board of Ontario

Comité permanent des organismes gouvernementaux

Nominations prévues

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STANDING COMMITTEE ON
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

Wednesday 18 October 2006

Mercredi 18 octobre 2006

The committee met at 1007 in room 151.

SUBCOMMITTEE REPORT

The Chair (Mrs. Julia Munro): Good morning. I'd like to call the standing committee on government agencies to order. Our first order of business this morning is the report of the subcommittee on committee business dated Thursday, October 12.

Mr. Ernie Parsons (Prince Edward–Hastings): I would move acceptance.

Mr. Gilles Bisson (Timmins–James Bay): Could you let me see the committee report, just to make sure?

The Chair: I think you have it.

Mr. Bisson: I unfortunately don't. Sorry, I don't. I walked in at the last minute here.

The Chair: It's the second page.

Mr. Bisson: Yes, no problem. Got it.

The Chair: Any comments? Mr. Parsons has moved it. All in favour? Thank you.

INTENDED APPOINTMENTS

SUZANNE GILBERT

Review of intended appointment, selected by third party: Suzanne Gilbert, intended appointee as chair, Child and Family Services Review Board/Custody Review Board.

The Chair: We will now move to the appointments review. This morning, our interview is with Suzanne Gilbert, the intended appointee as chair, Child and Family Services Review Board and Custody Review Board. Please come forward.

Good morning and welcome to the committee. As you may be aware, you have an opportunity, should you choose to do so, to make an initial statement. Subsequent to that, there are questions from members of the committee. We will, at that point, commence with questioning with the official opposition. Each party will have 10 minutes allocated for questions, and we will go in rotation.

As is also the practice of the committee, any time you take in your statement will be deducted from the time allocated to the government party. Welcome, and you may begin.

Ms. Suzanne Gilbert: Thank you. Bonjour, monsieur le Président et les membres du comité. I will speak in

English this morning. Of course, if you have questions in French, I will be more than happy to answer them.

I would like to thank you for inviting me and giving me the opportunity to introduce myself. I am a lawyer, a member of the Quebec bar. I have a master's degree in health law from the University of Sherbrooke. I have practised for nine years as a lawyer for children and parents, involving proceedings before the youth court in Quebec under the Youth Protection Act, which is partly the equivalent of the Child and Family Services Act in Ontario. I have represented children accused of criminal acts under the Young Offenders Act. I have practised in the field of adoption and representation of children before the Superior Court in divorce cases.

In 1988, I was appointed as the lawyer for a group of children—around 100 children—for the commission of inquiry into allegations of sexual abuse against staff and social workers working in a group home. This commission of inquiry was ordered by both the Ministry of Justice and the Ministry of Social Services of Quebec.

As you may see, my practice gave me an in-depth knowledge of the various problems experienced by children and families facing difficulties.

For three years, I worked in the cabinet of a provincial minister in Quebec as a political attaché and chief of staff of the Ministry of Cultural Community and Immigration, the Ministry of Finance and, finally, the Quebec Treasury Board.

I was appointed as a member of the Immigration and Refugee Board of Canada in 1996. I moved to Toronto in 2000 and became a coordinating member of a team of 11 to 13 members at the RB, and last year I was appointed as the acting assistant deputy chair of the Toronto region, which is the largest region in Canada.

The assistant deputy chair is the senior governor-in-council appointee in the regional office, with local management duties delegated from the chairperson, including case management, training and performance appraisal.

At the time of my appointment, I was leading a complement of 70 members. Members were supported by a staff of approximately 200 civil servants. During this last year with the board, I had to manage many changes in practices and policies, and a significant reorganization of the office. My 10 years with the board were coming to an end in August 2006.

In conclusion, I bring nine years of experience as a child representative, and 10 years of experience as a

board member, during which I have served for four years as a manager in a very large administrative tribunal. It would be an honour to be appointed as the chair of the Child and Family Services Review Board and the Custody Review Board. Thank you.

The Chair: Thank you very much. Ms. Scott, we'll begin with you.

Ms. Laurie Scott (Haliburton–Victoria–Brock): Thank you very much for appearing here before us today. Your background that you presented to us is quite extensive and you have a lot of experience.

I was wondering, how did you hear about this appointment?

Ms. Gilbert: I read the advertisement in the *Globe and Mail* in June.

Ms. Scott: All right. Did you apply online or did you speak to anyone after you applied?

Ms. Gilbert: What you have to do is go through the process of the secretariat, which I did, so I applied online through the secretariat. That was in June. I was then called for an interview before four people. It was in August—the end of August, I believe. Then I was selected to meet the minister. I think there were two or three candidates at the time.

Ms. Scott: You met the minister. Is that usual protocol, or is it because you're applying for the chair position?

Ms. Gilbert: I don't really know. I believe that as it is the decision of the minister to choose and to present the person to the committee, that's probably the reason why I had to meet the minister.

Ms. Scott: Who were the other four people that you spoke to—and if you could just give the minister's name.

Ms. Gilbert: The persons on the panel were Madam Roberts from the secretariat; Mr. Chisanga Puta-Chekwe is the chair of the Social Benefits Tribunal; one person from the cabinet of Madam Chambers; and one civil servant from the ministry, I believe.

Ms. Scott: And the minister's name that you met?

Ms. Gilbert: Madam Chambers.

Ms. Scott: Okay, thank you.

You've had a lot of experience in the political area of Quebec and you've been in Toronto since 2000. How do you think that you would like to change or expedite or deal with the Child and Family Services Review Board and Custody Review Board? As in, do you know how it operates now, roughly? I know that you haven't become a member and there's orientation involved, but can you give us kind of a broad idea of maybe some changes that you'd like to see, compare it to what you experienced in Quebec and maybe of what knowledge you have of what occurs in Ontario?

Ms. Gilbert: Of course, I have limited experience with that board because I've never been a member of that board. There are around nine members at the present time and one person acting as chair. From what I understand, this board is facing challenges with the coming into force of two bills. These two bills are increasing the jurisdiction of that board, on the adoption side and the

capacity of the board to review complaints made against children's aid societies. So my vision, or what I see as challenges for me as a chair, is to bring that board to a point that they will be able to efficiently deal with the new responsibility they have.

I cannot, at this point, tell you what could be the volume and the impact on the board. I haven't made this assessment. I presume it's on its way, that they are doing it. I'm eager to see what it will be, and the challenge is to bring the membership to these new responsibilities through training. There's probably a need to hire more members if the volume demands it. These are all the changes that are probably facing this organization, which is quite important.

Ms. Scott: Yes, very. When you mentioned the need to hire new members, was that a reference to the board?

Ms. Gilbert: I mean for the Child and Family Services Review Board. If the new jurisdiction involves a high volume or an increase in the volume of files and applications, that could be an issue. I don't know. I have to be there to do a proper assessment of that.

Ms. Scott: But in your capacity as chair, you do have the authority to extend the board?

Ms. Gilbert: Yes.

Ms. Scott: Okay; I was just clarifying that. I didn't know that for sure.

The new bill on the adoption side, were you referring to Marilyn Churley's bill—I can't remember the name—about adoption that was brought in?

Ms. Gilbert: Yes, I have it here.

Ms. Scott: Can you expand a little bit on that, on what challenges you might see specifically with that bill that's gone through?

Ms. Gilbert: The bill is repealing the actual jurisdiction given to the board in the Child and Family Services Act. There's a new process, and there's a change in the approach when you want to have access to some information regarding your file as an adopted person, and the same thing for a birth parent.

There is a change in the approach and there are some hearings that have to be held. This will demand some training for the members and training for myself too, obviously. I suppose we will have to change some practices and modify certain ways in which the board is operating now.

The Chair: You have two minutes.

Ms. Scott: Okay. I just have—

The Chair: A minute and a half.

Ms. Scott: Okay. I just have a minute left, really.

I will just ask you some quick questions. There's been a lot in the news about the CAS and the tragic deaths of the two young children in Barrie. Can you expand a little bit on what you see the challenges may be in dealing with the CAS process on these?

Ms. Gilbert: As I said previously—I always come back to this—we need to make an assessment of the actual volume of complaints that are brought before, I believe, each children's aid society. With these numbers, we'll be in a position to appreciate what the scope of the

work will be for the board. It will be an approximation, I believe.

This new process, which is the direct access to the board for the population, will give them an opportunity if they want to make a complaint. They now have the option to do it directly to the board. It's important that the population is aware of that, so there's some level of publicity. Of course, an administrative tribunal is not necessarily there to make publicity, but to make it known by the population.

We need to see the regulation. There's a lot of provisions in the actual act which are referring to the regulation coming. Of course, I haven't seen that regulation, so it's hard for me at this stage to make any more comments on what has to be done.

Ms. Scott: Thank you very much for appearing here before us today and answering my questions.

The Chair: We move on, then, to Ms. DiNovo.

Ms. Gilbert: Bonjour.

Ms. Cheri DiNovo (Parkdale-High Park): Thank you for appearing before us. Certainly, your background is extensive and covers a great deal of territory. I just wanted to start, perhaps, with your background. You have been assistant deputy chairperson of the refugee protection division. You have worked with refugees for a number of years. What prompts this move to a new area?

1020

Ms. Gilbert: What?

Ms. DiNovo: What prompts your move from the work that you have done with refugees to this area?

Ms. Gilbert: This position has given me a lot of experience. It's a large organization and it's a well-structured board. It was a challenge for a year to be the acting assistant deputy chair. All this experience will help me, I think, hopefully in the coming years as chair of this tribunal. I think I'm ready to move forward in my responsibilities and to now assume the position of chair.

Ms. DiNovo: What accomplishment are you proudest of from those years?

Ms. Gilbert: Well, mainly the last year, which has been extremely busy. You know, a board changes its membership. At the federal government, 10 years is a virtual deadline in your appointment. There were a lot of people that we lost during the year I was there, so I had to bring up to speed, if I can say it that way, a completely new team of coordinating members. I had to mentor them and give them a good idea of what their work was. I won't go into details, but we had a lot of changes in the structure at the office in Toronto. I'm very proud that in a few months we have been able to put in place practices and policies that made the work of the members and access for claimants to the board easier. It's mainly that.

Ms. DiNovo: Is there anything you would have done differently, looking back at that experience, any regrets you have about your performance there?

Ms. Gilbert: Not a lot, I have to say. I think I had a successful year. The regrets are in leaving an organization that you got to know and to see your colleagues

going also. That's my regret. But aside from that, we had quite a good year.

Ms. DiNovo: Wise woman. I have a few other questions, mainly about some of the challenges you'll be facing in this new role. First of all, Bill 183, the Adoption Information Disclosure Act that my colleague referred to: I just wanted to ask you about your personal opinion about that bill and what pitfalls you perhaps see in its implementation and, again, what challenges lie ahead in implementing the new disclosure rules.

Ms. Gilbert: I have no specific opinion on this legislation. I think it's the prerogative of the government to adopt this act. I am comfortable with it. The challenges, as I mentioned previously, will be to put in place some procedures. There are questions around how the hearings have to be held. These hearings are in camera, which is not an issue for me. I have long experience with in camera hearings. There's no problem with the rights of people involved in it, but there's an obligation to have hearings without the presence of other witnesses or parties at the hearings. At the registrar level, there are all these sealed files that have to be maintained and the training of the members, I think, mainly, because the test is quite clear to have access to some information, to prevent that the information be given. So I think there's a lot to do before this is ready to go. I believe, and I may be wrong, that it's coming in 2007; I think I read that it will be in force in 2007. So there's some time in front of us put it in place.

Ms. DiNovo: There was quite a publicized case—I think it made CBC Radio—about a young man who didn't want disclosure of his own adoption records. I wonder what you would see in that kind of pushback to the adoption of this bill. What would you do in a case like that?

Ms. Gilbert: What case do you mean?

Ms. DiNovo: Where someone, in his own instance, did not want disclosure and was actually struggling against the implementation of this bill.

Ms. Gilbert: Well, it's not for me to deal with that. As the chair, my responsibility, when this act is in force and promulgated, is to make sure that the process is in place to respond to the request of a citizen.

Ms. DiNovo: Defence for Children International—Canada is an organization that has advocated the position of a child and youth advocate. Many countries and many jurisdictions in the world have such a position, an ombudsman sort of position for children. Certainly Premier McGuinty said in 2003 that he would support such a role, but we have not seen such a role come to fruition. Would you support such a role?

Ms. Gilbert: I know, for example, in British Columbia, they are now in the process of hiring a new ombudsman for children after an extensive report. My position is that I would be in agreement with any decision that supports the best interests of children, if it's the best way to do it. That's an assessment that has to be done by Parliament.

Ms. DiNovo: Another question: The Safe Schools Act, which has resulted in a number of student ex-

pulsions, falls under your jurisdiction as well. How do you feel about the Safe Schools Act?

Ms. Gilbert: I don't have any specific comment about that one. I haven't been able to go through it specifically. I'm sorry about that.

Ms. DiNovo: Just generally, what is your feeling about expelling children from school for behavioural problems on a semi-permanent basis?

Ms. Gilbert: As long as the process is clear and gives an opportunity to children and parents to bring forward their position and get an explanation of why their children are not kept in the system—basically, I think we need a fair system for those people to be able to express their opinion. If that's the case, it's fine with me.

Ms. DiNovo: Thank you.

The Chair: I want to thank you very much for coming.

We do have a moment or two here if you'd like to ask questions. Ms. Smith, did you have a question? No. Mr. Parsons?

Mr. Parsons: I have a comment; I can't phrase it as a question, so I'm going to present it as a comment. I don't know a lot of things about many things, but this is an area I have a little bit of knowledge on: 25 years as a CAS board member, 19 years as a foster parent and 17 years as a school board trustee. I think this is one of the most important roles in this province, in that it very directly influences the lives of young people who need to be positively influenced. It is a very challenging role, and I think you're the person for it. Thank you for applying.

Ms. Gilbert: Thank you.

The Chair: There being no further comments, I certainly think that's the right one to end on. Thank you very much for coming today.

We will now deal with concurrences, and we will now consider the intended appointment of Suzanne Gilbert, intended appointee as chair, Child and Family Services Review Board, Custody Review Board.

1030

Mr. Parsons: I would move concurrence.

The Chair: Thank you. Concurrence in the appointment has been moved by Mr. Parsons. Any discussion? There being none, all in favour? Opposed? The motion is carried. Thank you.

AGENCY REVIEW

LIQUOR CONTROL BOARD OF ONTARIO

The Chair: Now we will move to the report-writing stage of the meeting. We are looking at consideration of the draft report on the Liquor Control Board of Ontario. I'll just give you a moment to find your copy, and we will open the floor for discussion.

All right. I think we're looking now at draft 2 of the Liquor Control Board of Ontario, and I suggest that we look at this on a page-by-page basis. You will see those areas where there has been change made between draft 1 and 2. If we can just go through pages 1, 2, 3, 4 and 5 and turn then to the inclusions on 6, 7 and 8; and then we're

looking at page 9 as the first section where there's significant change.

I would invite comment. We're looking at page 9. Any comments?

Ms. Monique M. Smith (Nipissing): In fact, pages 3 through 8 were all new to us. This is all the background information that we requested. I think we all noted that we didn't get a lot of advance notice on this report, but I don't see a problem with pages 1 to 9 on a quick read—leaving myself open to coming back again.

Ms. Carrie Hull: This is the information that was presented in the background report that we did prior to the hearings.

Ms. Smith: I suppose I didn't read the back of the report.

The Chair: All right. Are we satisfied with the information, then, that has been provided as additional information in this draft? Okay. I'd ask you, then, to look at page 9 in terms of any comments you wish to make. These, of course, continue on to page 10.

Perhaps we could ask you, Ms. Hull, to just give us a bit of background to the additions here.

Ms. Hull: Certainly. We were asked to add a section on the opening remarks presented by the LCBO, so pages 9 and 10 are a summary of the first five or 10 minutes of the hearings from that day.

I think it's fairly straightforward. It discusses the two key aspects of the LCBO as seen by Mr. Olsson: the social responsibility role, and the recent transformation of the LCBO into a modern, innovative, dynamic and efficient retailer.

Mr. Olsson spoke of some of the awards the LCBO has received. He mentioned it's a leading exponent of retailing in areas such as supply chain, marketing, consumer research, staff development and store design. That's basically a summary of the dividends paid in 2005-06.

In the first pages of this draft report I've presented more detailed analysis of the LCBO's financial performance in the last few years. I think that's pretty much the high point of that first section.

The Chair: Any comments?

Ms. Smith: I'm fine right until page 11.

The Chair: All right. Any others? When we turn to page 10, obviously we're looking at the issue of the recycling, the bottle return and the Tetra Paks.

Then if we turn to page 11, Ms. Hull, you might wish to just give us an idea of what changes are contained herein.

Ms. Hull: Page 11 is a continuation of what started on page 10, just a discussion of the Environmental Commissioner's presentation. On the day of the hearings, I was asked to make some changes, drawing attention more clearly to the aspects of the text that were mentioned by the Environmental Commissioner. Some changes have been made regarding a few linguistic terms. I'm not certain there's much more changed on these pages, other than a few words here and there, on page 11 at least.

The Chair: All right. Page 11, comments?

Ms. Smith: When we look at the hierarchy of recycling, if we could just do a similar source line as we did on page 12 for the chart; I believe that was also one of the Environmental Commissioner's charts.

The Chair: Certainly.

Ms. Smith: You guys have colour copies. Do I have a colour copy here?

Mr. John Wilkinson (Perth–Middlesex): Yes. It's in your lap.

Ms. Smith: Yes, aha. Even better.

The Chair: Any other comments on page 11?

Okay, turning then to page 12, which is a further discussion on the bottle returns and the issue of recycling. You'll notice here on page 12 that you have as the first recommendation that the LCBO implement a deposit return system for all LCBO containers and the discussion that follows from there. Any comments, then, with regard to page 12 or the first recommendation?

All right. On page 13 we have two more recommendations, and I would just again ask Ms. Hull to give us an overview of the rationales there.

Ms. Hull: On page 13, in the red section, we discussed last time that the Environmental Commissioner had recommended that the LCBO be designated as a prescribed agency under the province's Environmental Bill of Rights. The committee had asked me for more information about what would happen were the LCBO so prescribed. I was also asked to determine whether the LCBO had been a prescribed agency. At this point, this is where our question package comes into play: The first section of this is the various questions regarding the LCBO; the second document that you received, the first section of that paper answers those questions.

The first part of that—I'm on page 1 of the second document. I've summarized the six requirements of what a ministry may be asked to do if it's prescribed under the Environmental Bill of Rights. But perhaps before we look at those more closely, I'll just mention that the LCBO has never been a prescribed agency, even when it was under ministries that have been prescribed. It does not necessarily follow that agencies under the various ministries are prescribed. In fact, only one provincial agency has even been prescribed under the Environmental Bill of Rights, and that's the Technical Standards and Safety Authority.

The Chair: Okay. We have some discussion on this issue. Any comments?

Ms. Smith: I'm just not really sure about the value of including it under the Environmental Bill of Rights. I mean, all of their policies are available publicly. They're reviewed by this committee. There seems to be a fairly transparent management of the LCBO. I don't really see what the benefits would be of including them under the Environmental Bill of Rights, other than maybe giving the Environmental Commissioner a little more work; I don't know.

1040

Ms. DiNovo: I think the commissioner did indicate that that role would be a happy one. But more to the point, I think this might highlight this recycling en-

deavour by the LCBO. I think this would be a wonderful way, if somebody did pick up on this, to highlight whether the system is working. We hope it does. We hope it's the beginning of other systems like it in the province. This would be a way of really bringing light to bear upon that process in a positive way. So I don't see it necessarily as an overseer role in a negative sense but in a positive sense and certainly would like to see more and more agencies being included under the Environmental Bill of Rights, not fewer and fewer.

The Chair: Further discussion?

Ms. Scott: What we're saying in here is that the Environmental Commissioner did ask that the LCBO be designated as a prescribed agency. I agree with my colleague that it is something that should be looked at, especially in light of the new contract, which we haven't seen yet, about recycling with the Beer Store. We're asking for positive input on how we can better recycle, reuse etc., so comments from the Environmental Commissioner—which he would like to make, so it needs to be prescribed—I don't think is a bad thing. I think it's a good thing for the environment that we get feedback from him in a formal way. So when we say here that we recommend that "The LCBO be designated as a prescribed agency under Ontario's Environmental Bill of Rights," I don't have a problem with that. Is that what you were saying, Monique?

Ms. Smith: I'm just a bit concerned—

The Chair: Sorry. For the purpose of Hansard, I need to—Ms. Smith.

Ms. Smith: Oh, we're going to get into trouble today.

I understand what you're saying on the environment, but one of my concerns is that if there's only one agency that's ever been prescribed under the Environmental Bill of Rights, we're setting a precedent here, or we could be setting a precedent here, without a whole lot of context as to what the implications are. I just didn't want to be hasty in that, but I'm not going to—

Ms. Scott: Do you have a—

The Chair: Sorry, I must interrupt. Ms. Smith.

Ms. Smith: Wow, she's way tighter than Tim, eh?

Maybe we could say something like, "The committee recommends," something around "it be considered that it be designated" as opposed to "that it be designated"; that we look at "the implications of designating it" or "the possibility of designating it."

The Chair: Ms. Scott.

Ms. Scott: If you say we look at "the possibility of designating it," it's not as strong as recommending it. So you could say, "The LCBO be considered to be designated as a prescribed agency under Ontario's Environmental Bill of Rights."

Ms. Smith: Yes.

The Chair: Ms. DiNovo.

Ms. DiNovo: I would have to go along with the Environmental Commissioner. I think the Environmental Commissioner knows best on this. That's why he is the Environmental Commissioner. I think we've already discussed this as a committee and we've already gone

forward with this recommendation. It concerns me that we're backtracking on it. Again, this is just a move towards transparency and accountability. This is a move that will benefit the LCBO, particularly this program; that is to say, it will highlight this program if anybody does decide to exercise their option under the Environmental Bill of Rights and hopefully encourage others to go along this path. I don't think—and I'm sure that's not what the Environmental Commissioner had in mind—that this will hamper them in any way, shape or form. Again, just transparency and accountability and a way of looking at what might be a groundbreaking new endeavour.

The Chair: Ms. Smith.

Ms. Smith: Just a point for clarification: We're not in fact backtracking on this recommendation. When we first discussed this report—I'm not sure if you were at that meeting—we actually asked for more information before we made any determination on the recommendation. So just for clarity, we're not backtracking from where we were a few weeks ago; we just asked for more information, which we have now received, and we're making our determination.

The Chair: Further comments? All right. Is there agreement that we're going to leave recommendation 2 as it stands?

Ms. Smith: No. I think that—sorry.

The Chair: Ms. Smith.

Ms. Smith: I think Ms. Scott and I had come to some language that I think we could agree on: "The LCBO be considered to be designated."

The Chair: I think you might want to just say "consideration to be given."

Ms. DiNovo.

Ms. DiNovo: I'd be okay with that. I'm happy with that because it just seems like bureaucratise to me. It doesn't really say anything. I'd like to see us move forward and have more agencies transparent and accountable. I think this is groundbreaking and it would be wonderful to highlight this in the positive sense of an environmental review. So I'd like to go along with the Environmental Commissioner on this and hold my ground.

The Chair: Any further comments? That's what we can do. Certainly if you are in a position where you can't agree on how you wish to proceed, then I can ask you to do that.

Mr. Wilkinson.

Mr. Wilkinson: I think the concern we have is just the practicality of it. In other words, we're recommending something to be done that's unprecedented. As someone who has dealt a lot at the Ministry of Environment as the parliamentary assistant, I'm just thinking about the practicality of doing this. We understand that we're making a recommendation, that we've considered practically how best to do something which would be precedent-setting.

What I'm not comfortable with is—I'm comfortable with the principle, and I think we all agree with the

principle, but it's the recommendation and not understanding the practical nature of this. That's just the only concern, because one has to govern in prose. That's something we have to do. That's the thing I'm just concerned about, not the principle, because I think we have agreement on that. If we had a bit more information, some more information back from the ministry, from LCBO, from the Environmental Commissioner about how this would work in practice, because we would be the first agency, it is my understanding—

Ms. Scott: The TSSA also.

Mr. Wilkinson: But on the TSSA, what are the practical implications for that organization? I just don't know whether today, at this point, we're in a position to have the most informed vote on that, other than in the principle. I think that is where the hesitation is.

Ms. DiNovo: Just to correct that it's not precedent-setting; there is another agency. I just see this as extending yet another agency under the umbrella of this protection act. My understanding is the Environmental Commissioner is still recommending this. I haven't heard any evidence to the contrary, that the Environmental Commissioner has ceased to recommend this option. I've heard the concerns; I simply don't agree with them, and would like a recorded vote on that.

The Chair: Any further conversation? Then in order to make a decision on this recommendation—

Ms. Smith: I move an amendment to the recommendation as drafted. This would be recommendation number 2: "The committee recommends that consideration be given to have the LCBO designated as a prescribed agency under the Ontario Environmental Bill of Rights."

The Chair: Any further discussion? The motion has been made.

Ayes

Balkissoon, Milloy, Parsons, Scott, Smith, Wilkinson.

Nays

DiNovo.

The Chair: I therefore say that it has been passed.

We will move on. Looking at recommendation 3, any comments taking us to the next section on agency stores? Ms. Smith.

Ms. Smith: On the blue box, number 3, I just have some hesitation about the fact that we are moving forward with a deposit return system and that the practicality of having blue boxes available may be confusing. If you're coming to a liquor store and you bring your bottles back and see a blue box out front, you toss them in the blue box because you think that's what you're supposed to do. Then you go in and say, "I want my 10 cents back," or whatever it's going to be, and they say, "We need to see the bottles." So what I would just say is that maybe we recommend that we make blue boxes available until the deposit-return system is in place and fully functional across the province. That way, I think we

get at what we want, but we don't in fact confuse consumers when we do have the system in place. I think that was also recommended.

The Chair: Comments?

Ms. DiNovo: I would agree. We had this discussion before and it's just confusing. Why would you have a blue box when you're trying to implement this? Again, we had a discussion around this being a transition period, that the blue box be there and kind of make a point environmentally, and then moving into the new program. So I would agree that this needs some work.

Ms. Scott: That makes perfect sense. So do we need to move an amendment to that effect, that the blue boxes will be available until such—

Ms. Smith: I think if we all agree, we don't actually have to move—

The Chair: I was going to say that if there's general agreement, then we just move ahead. So we're going to make this an interim recommendation.

Ms. Smith: Just so we're all on the same page: "Blue boxes be made available at LCBO retail outlets until a deposit-return system is in place across the province."

The Chair: Thank you very much.

If there are no further comments there, we're looking at the section on agency stores that begins at the bottom of page 13. Once again, I'll ask Ms. Hull to take us through the section on agency stores.

Ms. Hull: I'm at the bottom of page 13. This first section in the red was taken from the background report done prior to the hearings, but I've just moved it here to add a little bit of clarification at the beginning of the section—a brief, two-sentence history of the agency store program.

Then we get into OPSEU's fairly lengthy recommendations. Last time we met, we agreed to scratch recommendation 4. Actually, the remainder of the recommendations do depend to a great extent on questions that were asked by the committee two weeks ago. If we go to my second document again—the various questions regarding the LCBO—to page 3, there's a fairly lengthy section on the LCBO's responses to the committee's questions about the agency store program.

The Chair: I'm open to any questions on this section.

Ms. Smith: With respect to recommendation 5, I know that we did have a fairly long discussion and tried to modify it in order to deal with local circumstances. But now that we've actually read the background—and I don't know if everybody's had a chance. It's on page 3, hours of operation:

"The LCBO states that store hours are set based upon market demand, seasonality and community practice. Changes to hours are determined at the regional level on the recommendation of the local LCBO district manager to ensure reasonable consistency among like communities. Hours are reviewed and changed as required in keeping with these criteria. Some communities, particularly in rural areas, experience significant swings in demand on a seasonal basis. To ensure appropriate service levels and operational efficiency, the LCBO commonly adjusts store operating hours seasonally."

As someone who comes from a somewhat rural community that has a number of agency stores, and where tourism is very important, I applaud the policy of the LCBO in being that responsive to the needs of our communities. I'm not sure that we wouldn't be tying their hands a bit with recommendation number 5. So I just put that out there.

Ms. Hull: I just need to interject that the question I was asked pertained to how the LCBO sets its hours for its own stores. The LCBO doesn't set the hours of the agency stores.

Ms. DiNovo: I still would defend this. The concern behind this, I think, is not consumer-driven but worker-driven, in terms of the LCBO's ability to function and not be privatized. The concern is, of course, that you're much more competitive, in some senses, if you're open 24 hours a day than if you're open prescribed hours, but we want to protect the LCBO and its function here. So really, it's just a recommendation that says that if the LCBO can't stay open, or if there are some reasons why it maybe shouldn't stay open, those reasons, then, should extend to the agency stores as well, that the agency stores shouldn't be put in a position where they're siphoning off business from the LCBO outlets. In fact, it goes on to recommend later that they'd like to see more agency stores be replaced with regular LCBO stores, that they want to move in that direction, not the other direction. That's our concern about these particular recommendations, so we would want to see them as stated.

The Chair: Further comment?

Ms. Smith: Just from a practical perspective, if you're an agency store—I'm thinking of one of my agency stores. They're open a lot because they serve a rural community, so they're open from whatever time to whatever time. I guess what we'd be saying is that we're limiting when they can actually open the LCBO section of their store, if we want to try to mirror what's going on in neighbouring LCBO stores. I just think it's going to be logistically difficult, but we've put in language around "where possible" and "for special local circumstances," so I could probably live with that.

Ms. DiNovo: I hear Ms. Smith's concern. That's why I think the language is "where possible" and "allowing for special local circumstances." I wouldn't want to get any softer than that.

Ms. Scott: It's certainly important not to restrict the agency stores and the service, especially in our rural areas. Reading number 5, and looking at the answers to the questions, I don't think it's absolutely necessary, but it's soft enough that—as long as it allows the agency stores to have the flexibility. It is just a recommendation. So that's fine.

The Chair: So I need some direction here. Is everyone in agreement that you want to leave number 5 in as it is, or not?

Ms. Smith: We can live with it.

The Chair: All right. So then we need to look at anything specifically with, I guess, 6 and 7.

Ms. Smith: I think number 6 was addressed in some of the background material.

The Chair: Yes, obviously that is the case.

Ms. Smith: They already are supplied and monitored by the closest—

The Chair: Yes, so we're going to omit 6. I think 7 is also part of a regular business plan.

Ms. Smith: I think 7 was deleted in the last round.

The Chair: I'm somewhat confused by 7, as a matter of fact. So 7 is deleted.

Ms. Hull: I'm sorry, 7 is not deleted. There was nothing I could do to remove that little line from the "7," though I tried many times.

The Chair: All right. I think that the committee needed that clarification. Then we need to look at 7.

Ms. Smith: No. I actually thought we had deleted it in our discussions last time, but I don't have all my notes here from last time. You didn't have it as deleted?

Ms. Hull: No, we did not.

Ms. DiNovo: I certainly wouldn't want to see it deleted. I might live with softer language. It sounds pretty dogmatic: "Existing agency stores be replaced with regular LCBO stores...." I would say something like, "Wherever possible, where the current or projected agency store sales volumes meet the minimum level to sustain an LCBO-run outlet." Again, this is a concern, in part generated from OPSEU, about the increasing privatization, and it's a pretty important concern. I wouldn't want to see that go.

Ms. Smith: We did hear from the LCBO that there were plans to look at a couple that were reaching that kind of magic number. I appreciate Ms. DiNovo's recommendation of "wherever possible," and I would take out "where the current or projected." So I would put, "Where the agency store sales volumes meet the minimum level." I think trying to change something on a projection is a bit iffy, at best. It's kind of hard to figure out what the current one is. Are we saying the current one today, October whatever-we-are, or are we saying the current one at that time? If we say, "where the agency store sales volumes meet the minimum level," we probably get at what we're trying to achieve.

1100

Ms. DiNovo: That's fine with me.

Ms. Scott: That's fine.

The Chair: Thank you. Recommendation 7, with those minor changes. We'll move on, then.

The bottom of page 15 has a recommendation which I guess would be 9 in our numbering system here. It begins on page 15 and goes to page 16, so I'd ask Ms. Hull to look at giving us an overview of the rationale that went into that.

Ms. Hull: This group of questions—I kept the numbering the same as last time in order that committee members could make reference to our previous discussions. So at the bottom of page 15, this box of recommendations continuing on to page 16, the committee asked that more information be given about the LCBO's policy for opening new agency stores: how communities were selected, how communities were notified, and questions like that. I've answered those on pages 3 through 6 in my second paper.

Ms. Smith: This is another one of those sections that we passed on, given that we wanted some more information on what the process was, because my understanding was that there was a fairly robust process in place. I think, if we look at pages 3, 4 and 5 of the background information that we've now received, there is a robust process in place. I would recommend deleting recommendation 9.

The Chair: Any comments?

Ms. Scott: I think that the LCBO is doing a thorough job on that. I have no problem with the deletion of number 9, because I think that there is reasonable public consultation, input from the community and input from the municipalities involved. So that's fine.

The Chair: Thank you. Seeing no further discussion, I want to look at the currently listed number 10.

Ms. Smith: Just on number 10, we had discussed the fact—and it's in the next paragraph—that the organization does not approve agency stores that are located less than 10 kilometres from an existing LCBO outlet. So when we say that no "agency store location be considered unless it is demonstrated that there is no existing LCBO outlet within 15 kilometres," I thought we had all agreed that 10 kilometres was fine at the last meeting. That just may have been lost in translation. There were a lot of changes, but if we're all okay with 10, I'm fine with the rest of that.

The Chair: So you would want to change this or delete it? I'm not clear.

Ms. Smith: Sorry, I just want to change it from "15" to "10" in the first bullet point of recommendation 10.

The Chair: All right. And the rest of the bullet points?

Ms. DiNovo: I just have a question. Maybe I just can't remember what the discussion was, but under number 10, "the approval of an agency store will have no serious negative impact on other area businesses or put them at a significant competitive disadvantage"—I'm just wondering what the rationale is behind having that there. I can't imagine any negative consequences. I'm just wondering where that came from. Perhaps somebody could refresh my memory?

The Chair: Are you able to do that?

Ms. Hull: I'm not 100% sure on this point, but I thought it was that if you have the added attraction of being the only LCBO outlet in your community, you could potentially draw customers away from other grocery stores etc.

Ms. DiNovo: Is anybody else clearer on this?

The Chair: Is there a concern about that particular bullet? Do you want to leave it in?

Ms. DiNovo: I'm just not sure what it means. As I say, we were all sitting around the same table, so if somebody can clarify a little bit better—I just can't imagine an agency starting to have a serious negative impact on other area business. I can see them having a negative impact perhaps on an LCBO outlet but not on other area businesses.

Again, this harks back to the transparency of the public hearings and everything else. I can imagine per-

haps local businesses wanting to be dry or wanting not to have a liquor outlet of any sort in their area, then presumably this is covered by the transparency of the process that the LCBO is already engaged in. I don't know. It kind of raises a negative spectre where I'm not sure one exists, if the procedure is as transparent as it seems to be.

The Chair: If I might just interject here, if you look on the secondary documentation that we've received, in the third paragraph from the bottom on page 4 it does talk about the process, which would seem to indicate perhaps a clarification of this issue, where it says they must put "advertisements in local papers to inform the community ... to provide this additional service within their existing business and of the process ... to participate in the competition. Prior to placing ... the LCBO consults the local municipality regarding service...." In the paragraphs that follow there's a continuation of the kind of research that goes on prior to any kind of decision-making. I just point that out to you as a matter of clarification in looking at this particular part.

Ms. DiNovo: It seems to be redundant at best and, as I say, possibly raising a negative spectre at worst, in a place where one need not be raised.

The Chair: Yes.

Ms. Smith: I'm happy to delete the fourth bullet point of recommendation 10.

Ms. Scott: That's fine. I'm good.

The Chair: All right. Thank you very much. If we could look at number 11 then, Ms. Smith.

Ms. Smith: My memory may be failing me again, but I believe this was deleted at the last meeting. It wasn't deleted, Laurie? You don't have it?

Ms. Scott: I don't have it as deleted. I had that we may be changing some of the terminology. I don't have it as deleted, but I haven't really compared the differences here yet.

The Chair: Well, perhaps this is the moment at which to make that decision. Could we just look at it from that perspective? Again, I would remind people of the analysis that we have here that in fact might lead you to see it as redundant.

Ms. Smith: The second point is definitely redundant, because we've dealt with that up in 7, I believe. The first point is kind of mind-numbing: How would we ever be able to determine that? It was based on some of the evidence that I took some exception to from—

The Chair: I'm sorry. Are you referring to the—

Ms. Smith: I'm referring to, "No agency store will be located in a host business ... that could raise risks regarding social responsibility...." You could probably make the argument that there isn't a location on the planet that couldn't raise risks of social responsibility. I don't know. It just seems vague, broad and not terribly helpful. I don't know what the point of it was. Maybe that was our discussion, Ms. Scott?

Ms. Scott: Yes, I think it was.

Ms. Smith: I didn't get the point last time. I'm still not getting the point after sober second thought.

The Chair: Any further comments?

Ms. DiNovo: Again, I'd concur with that. I can't imagine any such place on the planet either. I'm trying to imagine, you know, grocery stores and things—we don't want, I don't think, in this committee to hamper the day-to-day running of an agency that seems to be doing well. This might just throw a curve at folks, so I would just delete this entire number 11.

The Chair: All right. It seems to me there is, again, general agreement on that. Okay. Thank you.

We're looking down at the bottom of page 16. Of course, that's where we get the 10 kilometres and the mandatory training that people must engage in.

If we turn to page 17, I would entertain any comments with regard to that. Perhaps, Ms. Hull, you might wish to just give us a brief overview of that.

1110

Ms. Hull: Immediately, at the top of page 17, I've just added some of the LCBO's post-hearing response, and some of their response during the hearings, and I just did that to present the LCBO's case as fairly as I could. Some of this information is actually in the second document that I prepared for you, but I just wanted to have something in this draft presenting the LCBO's side.

I don't think there's anything else, up to the domestic small producers section, unless a member has a comment.

The Chair: Yes. Ms. DiNovo?

Ms. DiNovo: Just on page 17, the second paragraph, it says, "Some committee members suggested that some agency stores were generating more sales than small LCBO outlets, and therefore questioned the rationale for opening an agency store." I don't think that's quite right. "The LCBO notes that it has not converted any agency stores...."

The question, I think, was: Why not? If there are agency stores generating that amount of sales under the previous recommendations, then shouldn't these agency stores become LCBO outlets? That was the nature of the concern, if I remember correctly. Otherwise, it doesn't make a lot of sense that "some agency stores were generating more sales than small LCBO outlets, and therefore questioned the rationale" for not opening an agency store but converting that agency store into an LCBO outlet.

That was the rationale unless, again, I don't remember correctly.

The Chair: If I could just remind you that on page 15, you are including the recommendation, "Existing agency stores be replaced where the ... agency store sales volumes meet...." So I just remind you that you are including that in the text.

Ms. Smith, you had a comment.

Ms. Smith: Yes. I was here on that lovely day with the LCBO, and in fact the member for Timmins—James Bay went on at some length about why we opened agency stores at all when he thought there was volume to open a real store. As I recall it, this does reflect the discussion. There were two discussions. There was the discussion of converting agency stores to LCBO, if the sales were there, and that's recommendation 7, but he

also went on at some length, as he's wont to do, about, why are we opening agency stores at all if there's a market for an LCBO outlet?

I think that fairly reflects what happened. We could go back and look at Hansard if you want.

The Chair: All right. Any further comments? Then we're leaving this paragraph as it is in this draft? Okay.

Ms. DiNovo: I'm just going to say that I don't have a problem. Again, there's just a little bit of a redundancy here, but let's leave it.

The Chair: All right. I'd like to move on, then, to the domestic small producers section. Ms. Hull, if you could start for us, please.

Ms. Hull: At the bottom of page 17, I've added a paragraph summarizing the LCBO's programs for VQA and Ontario wines. Some of these programs are specifically for VQA wines; some of them are for all Ontario wines. I was asked to provide information on quite a few points.

First of all, the issue of the off-site winery retail store licences and the issue of wine labelling, in particular the Wine Content and Labelling Act, the LCBO's shelving policy in regard to VQA wines and cellared-in-Ontario or cellared-in-Canada wines, and just a more general discussion of the LCBO's support for VQA and Ontario wines.

I suppose the first topic we could look at would be the off-site winery retail store licences on page 7 of the other document.

The Chair: Questions or comments? Ms. Smith?

Ms. Smith: As far as our report, I'm fine with pages 17 and 18 and recommendation 13. If we're going to talk about off-site winery retail store licences, I think we do run into some trouble here, because the issuing of those licences has been very much limited by GATT and NAFTA agreements, and I think that we would be opening a can of worms if we start recommending changes to those. My understanding—and I'm not sure if it's in the note here—is that there's no real mechanism for those off-site winery store licences to be transferred, to be taken away from an existing business and given to another. I don't believe they have that ability. But they also, because of the GATT and NAFTA agreements, don't have the ability to issue any more.

Ms. Hull: My understanding is that the licences are sold sometimes. When wineries buy up other wineries, there's often a purchase of the licences as well, or transfer of the licences. But as far as I've been told, it is not possible to issue more licences.

The Chair: Okay. Any further comments? All right.

So we're looking at recommendation 13, which there seems to be general agreement on. Any questions? We have a bit of background here on 14. Any change or comments there? The background information is on pages 7 and 8 of the research document.

Ms. DiNovo: It does feel a little strange not to be able to make any recommendations around this since, as Ms. Smith pointed out, we're hampered by other legislation outside of our control. I can imagine that if you're a grape grower and producer of wine in southern Ontario,

you'd be a little concerned: Who's control does it come under, and how can we address this? So I don't know that it falls within our purview, but it would certainly be interesting to know. I thank the legislative researchers for doing what they've done. They've done an excellent job. But personally I'd be interested in knowing—what venue do these producers have? If they'd like to see another retail outlet opened, how do they go about that?

The Chair: Further comment?

Ms. Scott: For number 14, there's nothing wrong with recommending a review. I realize it might get into licensing laws, but we could do a review. Or you're saying from research, really, number 14 isn't possible?

The Chair: Carrie, do you have any comment?

Ms. Hull: I don't know how you could get a licence from one of the wineries that already has a licence. But I do know that the licences change hands with the purchase and sale of vineyards.

Ms. Smith: Perhaps I can suggest—we're frustrated by the present circumstance that we can't change, so maybe we address it by saying, "Given the present circumstance of the distribution of off-site winery retail licences, we recommend that the LCBO look at ways to improve the sales abilities of small and medium VQA producers." It's fairly broad, but we're kind of addressing the fact that we have a concern about X; we can't do anything about X, but let's see what we can do through Y. I'm just trying to find a compromise.

Ms. DiNovo: I would agree with that. I would also maybe make some mention of this cap, since in reading our document you wouldn't get a sense. The question would be, "Why is it capped?" So just some mention of the fact that due to international trade agreements, it has been capped at 290 since 1993. The concern is not so much wresting away licences from those wineries that already have them to give to somebody else but, "Why is it capped?" This is a legitimate question by small wine producers and grape growers, so we should make some mention that this is outside of our jurisdiction in that comment and, again, leave it up to the wordsmiths. I don't know quite how you would do that. Right now, one could say, "Why can't we do something about this?" Clearly our hands are tied around it. We need to get that message across somehow.

The Chair: Obviously, being able to create the level of understanding is what you're dealing with there. In that context, asking the LCBO to do what it can; what are the options available to it in that international context?

1120

Ms. Smith: In the third paragraph on page 18, we could give a bit more context as to what we're talking about with off-site winery retail stores and the limitations around the distribution of any further ones, and then reference that in recommendation 14, noting that there is an inability to distribute more or new off-site winery retail stores and that the LCBO should look at different means to assist small and medium VQA producers.

Ms. DiNovo: I would like to make some mention that these are international trade agreements that we're dealing with, and there's a cap of 290. I would want the

international trade agreements' cap of 290 in there so that, really, we're getting the message across to those wine producers and small grape growers that we're not ducking this, that this is beyond our capacity to deal with as a committee.

The Chair: All right. Thank you.

Ms. Hull: Should I propose text for a recommendation to see what the committee thinks? Given our obligations under trade treaties that limit the creation of new off-site winery retail store licences, "review ways to enhance retail opportunities for small and medium VQA wineries."

Ms. DiNovo: It sounds good. I almost would like to see that it had been capped at 290 since 1993. I don't think that's too strong, because somebody would say, "What is the cap?" I want to make it quite clear to people reading this document that this is outside of our jurisdiction, that we're hampered here by an international trade agreement. Again, I wasn't at the hearings, but the people who are concerned about this—and I have heard those concerns; so that they're addressed.

The Chair: Thank you. Any further comments? All right. I'm happy to accept the recommendation, Ms. Hull. We're looking at 15.

Ms. Smith: I just note that the legislative changes to the Wine Content and Labelling Act—the LCBO wouldn't have jurisdiction to make legislative changes, for one. To whom are we making these recommendations? If it's just to the LCBO, then we're barking up the wrong tree, because generally speaking it would go to liquor control or licensing and management boards. It's just a little strange that we'd be talking about it here.

The Chair: Do you wish to respond?

Ms. Hull: I still think that under the act, the use of language—opportunities are raised and opportunities are shut down for the kind of language that can be used by the LCBO, and our presenters had some questions about how the LCBO was using the language of the act. But you're correct that the legislative changes obviously could not be made by the LCBO.

The Chair: Any other comments?

Ms. DiNovo: I just wonder if we couldn't skirt the problem by saying, "The LCBO further promote consumers' understanding of the nature of VQA wine and Ontario-grown wine," and then scrap the rest of the sentence. Again, we're out of our jurisdiction here. We're asking them to be out of their jurisdiction. What we're really trying to get at here is that they promote Ontario wine.

Ms. Smith: I'm fine with that.

The Chair: Okay. Let's move on. Recommendation 16. Here, we're talking about a specific VQA division. Any comments?

Ms. Smith: Sorry, did we get any further information on the LCBO's ability to create?

Ms. Hull: I think I've actually included it in the report document itself on page 20—sorry, I have to find it first.

Ms. Smith: While we're looking for that, Chair, if you don't mind, my understanding is that the sale of Ontario wines is helped by its presence among other wines. So if

someone comes in with a view to buy a certain type of wine, when they see the promotion of the Ontario wines that is done at the LCBO, they're inclined to at least stop and take a look. My understanding is the concern would be that if we started creating stand-alone VQA stores, we wouldn't necessarily have the same traffic. I don't know if that's reflected in the background information or not.

The Chair: Ms. Hull, did you have something to add to that?

Ms. Hull: I just wanted to say that I found it. It's actually in the secondary document on pages 13 and 14. That directly responds to the questions of whether any LCBO stores specialize in VQA wines. The LCBO responded that three or four stores have more than 100 different varieties. On page 14, the LCBO has told us they are organized around function rather than products and there are no other divisions in their organization for products.

I just wanted to clarify, though, that a presenter, the Grape Growers of Ontario, was particularly concerned about the distinction between VQA and Ontario wines within the LCBO.

The Chair: Ms. DiNovo, I think you want to respond.

Ms. DiNovo: I was just going to say what Ms. Hull was saying, that it is on pages 13 and 14. I also agree with Ms. Smith—and the point is made on pages 13 and 14—that better sales result from being in a mixed environment than from having stand-alone stores. But I am concerned about the grape growers and their concerns. Is there some way we can say a line about that that obviously isn't this one? I'm not sure what that line would be; that VQA is separated out somehow, or that people understand. Perhaps this is already addressed in number 15. We've said, "The LCBO further promote consumers' understanding of the nature of VQA wine and Ontario-grown wine." Maybe "distinct from Ontario-grown wine," or something like that, and scrap 16 altogether, would address our concerns.

The Chair: Any comment? Just following on yours, I'm wondering if it's as simple as saying, "The distinctive nature of VQA wine."

Ms. DiNovo: Sounds good, Madam Chair.

Ms. Smith: Sorry?

The Chair: In 15, if you were just to add "consumers' understanding of the distinctive nature of VQA wine and Ontario-grown wine."

Ms. Smith: And then remove 16 altogether?

The Chair: Yes, that's the suggestion that's been made. Any further comments? Okay.

Now we're looking at the pages following, pages 19 and on, that deal with the Ontario craft brewers. I'd like to begin by asking Ms. Hull to give a few comments.

Ms. Hull: At the top of page 19, I've just added the summary of the LCBO's programs for Ontario craft brewers. This summary was presented by the LCBO at our hearings in September. It just basically says that there are several special programs for Ontario's small breweries.

Further down the page, I was asked to find out profit margins of the microbrewers. I was asked to investigate

the LCBO shelving policy and also the cost-of-service fees at the LCBO as opposed to Brewers Retail. The answers to these questions can be found on pages 15 to 17 of the secondary document.

The Chair: Any comments, looking at page 19 and the additional information that is included in there?

Ms. Smith: Sorry, I was just trying to get through the new information that we have. Did we not hear about some shelf space growth-based policy already? Do you remember they told us that they already designate some shelf space for a certain length of time? Was that these guys?

1130

Ms. Hull: I think it's in there. On page 19, paragraph 4: This is where the microbrewers express concern about the LCBO's shelving policy. The LCBO has acknowledged that they use a sales volume shelving policy, not a growth-based policy. Again, I suppose it was summarized as fairly easy to get on but difficult to stay on unless you have fairly high sales right from the beginning. In my secondary document, the LCBO says that this is standard practice for large retailers and they make an argument in favour of a sales-volume-based shelving policy. That's on page 15 of the secondary document.

Ms. Smith: Again, I would suggest that we change the language to say "consider implementing a growth-based shelf space policy" because I don't know that we want to actually dictate that they implement it, and given that their market analysis—it's the business that they're in and we should defer to their expertise in that realm, although I do believe that we should at least ask them to look at it. So "consider implementing a growth-based shelf space policy" would be my recommendation.

Ms. DiNovo: I concur. It's obviously come down to a discussion of months here, two months versus six months, what necessitates a growth-based shelf space policy. There are some questions. I would say that that language would be fine, "The LCBO consider implementing a growth-based shelf space policy," but I think it needs to be in there.

Ms. Scott: That's fine. I agree. I think to "consider to implement," and not get into details. It's just that it was brought to our attention by the craft brewers and it's fair to ask the LCBO to consider that implementation. So I'm fine with that language.

The Chair: Thank you. Any comments with regard to recommendation 18? Number 19?

Ms. Smith: Again, if we could say "consider" giving microbrewers a rebate on their service fees. I think it's a bit prescriptive to tell them to give a rebate.

The Chair: Thank you. Any further comments or questions? We'll move on to the section on social responsibility. It begins on page 20 and then page 21, with the recommendation on page 21.

Ms. Hull: We don't have any new information until page 21. I was asked to summarize the LCBO's post-hearing submission of information about the statistics it gathers regarding alcohol-related deaths and illnesses and drinking and driving deaths and illnesses.

I've basically just quickly summarized that the LCBO did provide us with a number of studies. It stresses that it uses the most up-to-date data on alcohol-related motor vehicle accidents. It is guided by independent third party research and program development and, where possible, post-test evaluation.

We're in the second full paragraph on page 21. At the time of the hearings, the LCBO officials had stated that yes, it would be a good idea to track their advertising programs with alcohol-related deaths and injuries, but in their post-hearing comments I was informed that while the LCBO told me it would not be possible to evaluate any single campaign in terms of changes in injury and death rates, the LCBO also stressed that it promotes responsible drinking and that its campaigns are not designed to address problem drinking—independent serious issues best confronted by expert organizations.

The Chair: Comments?

Ms. Smith: The notion of our recommendation 20 is a good one, but I think practically speaking I would have to agree with the LCBO staff that it would be very difficult, because you can't really factor in all the extenuating factors that come into play. The LCBO has a great anti-drinking campaign, or MADD is running a great anti-drinking campaign, but at the same time, the American beer companies are running beer ads through every hockey game. How do you judge what impact you've had? If that particular community has a bar that's having happy hour every night, how do you judge all those other implications as they pertain to traffic accidents or injuries? I just put it out there as being practically impossible, I think.

Ms. DiNovo: Yes, I think that this is putting the onus on the LCBO, and I think they're part of the solution, not part of the problem in many instances. Again, as Ms. Smith pointed out, this is a much larger problem and difficult, if not impossible, to measure anyway. But certainly if there's guilt here, it's not so much with the LCBO, that they're the messenger; it's with the makers of alcohol products, and some of the larger ones, at that. So how could one measure it? I think there's a good idea behind this recommendation. This doesn't address that good idea. The good idea is, how does one measure their programs about social responsibility? What is the measurement tool? I don't think this is it. Is there one? I don't know. Again, I wasn't at the hearings. I'll leave it to my colleagues to figure that one out. It certainly isn't this.

The Chair: Any further comment?

Ms. Scott: I guess the recommendation is in here. Can we do anything with it, then, or just delete it? I agree with what has been said. How do you do this? There are so many factors that aren't in the LCBO's control or purview. So I guess my question is, what do we suggest?

Ms. Smith: I think we want to address the fact that they have social responsibility programs and we believe that they're effective to some degree, so maybe we say that we recommend that the LCBO continue to improve the effectiveness of its social responsibility programs, or something to that effect, just to kind of encourage them

to keep doing it, as opposed to just deleting the notion altogether. Or is that a completely different idea than what was here? I'm fine with deleting it. If we want to keep the thought about approving their social responsibility programs, I think that might be one way.

The Chair: I think what we're looking at here, from the conversation—not asking them to do what is in fact suggested by this, because everyone seems to agree that's not possible. So the question, then, that Ms. Smith has proposed is, do you want to give the nod, so to speak, to the efforts that they do make on social responsibility?

Ms. DiNovo: I would just suggest that it say very simply that the LCBO continue to improve their social responsibility programs. Really end it there and take out “by explicitly correlating them to trends,” blah, blah.

The Chair: Comments?

Ms. Smith: Yes. I'm fine with that too.

The Chair: All right. We can move on to the last section here, on the specific issues with regard to the police and First Nations and the issue of bootlegging. So we're looking at the top of page 22 as an addition. Comments?

Ms. Smith: I'm fine with recommendation 21 as it's written.

The Chair: All right. Everyone agree? Thank you. Recommendation 22.

Ms. Smith: I'm torn on 22 because I'd like to say, “Consider increasing,” but I'd also like to say, “Increase,” because I totally support what MADD is doing. My management side says that we should say, “Consider increasing,” but the good angels on the other side are saying, “Let's just say, ‘Increase.’” I leave it to my colleagues.

The Chair: Perhaps we can open it up to others and have a look at that. Does anyone else wish to comment on “should increase” or “increase”?

Ms. DiNovo: I like “increase” as well. However, again, when you can't measure this social responsibility when we're asking them in the previous recommendation just to continue along, thank you very much, it's hard now to sort of put a dollar figure on it and say, “and also.” I unfortunately would want to say, in light of everything else you've done here, “Consider increasing” the percentage of its budget to give them some latitude until we have some way of measuring how these social responsibility programs work. The paragraph before that stressed MADD's support for the LCBO. Again, we don't want to run their business for them. MADD themselves are saying that the LCBO is doing a pretty good job, so I wouldn't want to put a dollar figure on this unless we're softening the language at the front end.

1140

The Chair: Any other comments?

Ms. Scott: I think we can live with “Consider increasing” if we're going to leave the dollar value. I'm okay with “Consider.” Ms. Smith, are you?

Ms. Smith: “Consider increasing the percentage”? Yes.

Ms. Hull: I would just like to ask if the committee would like to merge what is presently recommendation

22, the one we just considered, with recommendation 20 on the previous page, or blend them together in some way?

Ms. Smith: I think we should leave them as is, because it follows on the MADD discussion. I think that was where the recommendation was coming from.

The Chair: Do you want to make a suggestion there, Ms. Scott?

Ms. Scott: Sure. Just from speaking with research, I think that maybe it would flow better if we changed the order a little bit. So “Social Responsibility” stays in that flow, and then—you wanted the First Nations, was it?

Mr. Larry Johnston: Just switch the MADD discussion and the First Nations discussion.

Ms. Scott: Sure. So switch MADD and First Nations just for flow. I don't think anybody has a problem with that.

The Chair: Thank you very much, Larry, for recommending that.

So we're ready, then, to look at the end of the document. Recommendation 23 has a change there. Is there any comment? This reflects discussion.

We'll look, then, at the last part. Again, there are a couple of changes on page 23. I'd just ask you to review those. Is there consensus on those?

Ms. Smith: I made the change to take out “the LCBO's website indicates.” I'm on “Customer Satisfaction” and the second bullet point. Maybe we could just call the LCBO and ask them for a clarification. Their evidence was that 700 customers were surveyed by telephone. Their website says 250. I just think we want to be accurate. Hansard said 700, but why don't we just call them and ask them, if that's okay with committee members? Then we'll know for sure.

The Chair: Any other comments? Okay. So we'll ask that research check on that. I think we're in a position now to ask that this come back as draft 3. Further comments?

I'd just like to mention to the committee that obviously we are in a position, at this point of our allotted time, to be able to look at draft 2 of the Ontario Lottery and Gaming Corp. report. However, I know that members received this very recently. So I'm in the hands of the committee; whether you wish to adjourn or take the next few minutes to discuss draft 2 of this report.

Ms. Smith: I think, given the lateness with which we received this report, we should probably put it off until next week. What I would recommend is that maybe we start with Hydro One next week and we bring this back on a day when we have appointments, kind of like today, where we have a couple to review, and then we have an hour at the end. If that's amenable to the other members, that would make sense.

The Chair: Yes. Good. That's why I wanted you to entertain the options here.

There being no further business, the committee stands adjourned.

The committee adjourned at 1146.

CONTENTS

Wednesday 18 October 2006

Subcommittee report	A-351
Intended appointments	A-351
Ms. Suzanne Gilbert	A-351
Agency review	A-354
Liquor Control Board of Ontario	A-354

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A-22

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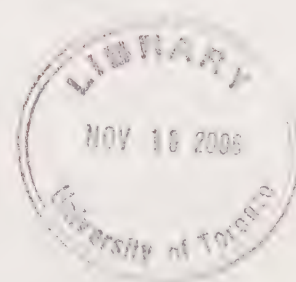
Mercredi 1^{er} novembre 2006

Standing committee on government agencies

Agency Review:
Hydro One

Comité permanent des organismes gouvernementaux

Examen des organismes
gouvernementaux :
Hydro One



Chair: Julia Munro
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

Wednesday 1 November 2006

Mercredi 1^{er} novembre 2006*The committee met at 1004 in room 151.*

SUBCOMMITTEE REPORTS

The Chair (Mrs. Julia Munro): I'd like to call the committee to order. The first item on our agenda this morning is the report of the subcommittee on committee business dated October 19, and the report of the subcommittee on committee business dated October 26. Could I have a motion to begin with the first one?

Mr. Ernie Parsons (Prince Edward–Hastings): I move acceptance of the report of October 19.

The Chair: Thank you. And the second item, the second report?

Mr. Parsons: We're going to vote—

The Chair: Okay, sorry. I need a vote on that motion.

Mr. Howard Hampton (Kenora–Rainy River): What's the motion again, please?

The Chair: The report of the subcommittee on—

Mr. Hampton: And what is the report of the subcommittee?

Mr. Parsons: It's in front of you.

The Chair: I'm not sure whether you have it there. You should have the sheet there.

Mr. Parsons: None of the parties selected.

Mr. Hampton: Pardon me?

The Chair: I think you have the sheet dated October 19, the report of the subcommittee that there were no selections.

Mr. Hampton: All right.

The Chair: You'll see one is dated October 13 and the other one—

Mr. Hampton: October 19: "That the following intended appointees—"

The Chair: I'm sorry, the 19th, yes, and October 26.

Mr. Hampton: Yes.

The Chair: First of all, we have a motion for October 19. All those in favour? Thank you.

Mr. Parsons?

Mr. Parsons: I would move acceptance of the October 26 report.

The Chair: All those in favour? Thank you very much.

Mr. John Yakabuski (Renfrew–Nipissing–Pembroke): It's going well so far.

Mr. Parsons: Just watch my hand, John.

AGENCY REVIEW

HYDRO ONE

The Chair: We're now moving to the third item on our agenda, which is the consideration of the draft report on Hydro One, and we're looking at draft number one.

Mr. Parsons: Chair, I would like to make a comment on this third item before we commence it. The committees, when we examined the past history of this, have held report writing in camera and in public. The decision, to this stage, has been to not have these items in camera, and that's fine with us. The one concern is, as a result of some statements that were made at the public hearing by the presenters, there are lawsuits taking place between parties, and I would just ask that we not discuss items that are currently before the courts, items that are relating to the lawsuits that are presently taking place.

1010

Mr. Hampton: What is currently before the court? Do we know what's currently before the court?

Mr. Parsons: It is public information that the CEO for Hydro and the Hydro board itself have filed suit against the Society of—

Mr. Hampton: And what's the nature of the lawsuit?

The Chair: Could I just clarify for you? I think if you look at the draft that you have before you, it does not contain information that is the subject of the legal proceedings.

Mr. Yakabuski: It does not?

The Chair: That's right.

Mr. Parsons: That's correct. Basically, I believe the lawsuit is relating to libel and slander. I think it would be wise of us to not introduce that. If we stick to the draft as presented, that's great. We can expand it to areas that are not in the draft, but not areas currently relating to the litigation between those parties.

Mr. Yakabuski: I'm good with that.

The Chair: All right. Is that something that everybody is clear about?

Mr. Hampton: We've got the draft report in front of us. I guess the question needs to be asked: Does anybody see anything in the draft report now that in your view crosses that line?

Mr. Parsons: No.

Mr. Hampton: Okay.

The Chair: All right. Thank you for the clarification. As in the last couple of documents we've looked at, I will

ask you to point out any issues. We'll go page by page and look at the possible recommendations. So if we go to page 1 and page 2—yes, Mr. Milloy?

Mr. John Milloy (Kitchener Centre): I'm not sure if this is the appropriate time to raise this. This is more of a general comment, and I realize this is only the first draft. Again, we've raised this with some of the other ones. The overall tone of the report seems to be very high on some of the criticisms that were brought forward, which is fair enough, but a little light on some of the reports of progress that is being made and things that have been put forward. I'm just wondering, again, if we can find a little bit more balance in the commentary, notwithstanding the fact that obviously draft two is going to be looked at in some detail. I was going to suggest that I can provide the researcher with a list of some of the items in Hansard where there have been discussions of some of the improved performance and things that have gone forward. I mean from presentations that were made; this isn't new material. If she could try to incorporate some of that into the next draft. Again, it's just on the general tone of the commentary and, as I say, notwithstanding, obviously, the committee is going to have an opportunity to look at that second draft.

The Chair: Any further comments?

Mr. Hampton: I think what the committee was trying to do was look at—this is a pretty important agency for Ontario, and I'm looking at some of the material that Hydro One itself provided: "Hydro One Response to the Society Submission." Hydro One essentially agrees with many of the things the society says. For example, the first thing the society raised was, "This committee's review is taking place at a time of crisis in the electricity sector in Ontario. This province is now facing unprecedented stress on the power grid, a demand that is growing beyond the capacity of an aging transmission and distribution system...." It goes on, and then Hydro One's response: "The concerns raised by the society with respect to the electricity sector in Ontario have some validity. They are also correct this is the time when there is a need for strong visionary leadership to gather the best and brightest workers in the electricity sector and inspire them to meet the challenges of the day."

So Hydro One agrees that this is not a business-as-usual time, that there are some really serious issues that have to be addressed here. I think what we're trying to do in the report is focus on some of those really serious issues. One of the issues is, this corporation has been placed on the almost daily watch list by the WSIB. That's pretty serious. It has been put on the list of the worst corporations in Ontario in terms of its health and safety record. I think we should be focusing on the critical issues that Hydro One has to address.

The Chair: Thank you. Mr. Milloy?

Mr. Milloy: Again, the question is, if I was to make a presentation to research to find a balance—I mean, obviously, I agree with Mr. Hampton that we have to deal with those issues of concern, those issues where challenges still remain, but at the same time, we're doing an overview of a government agency.

I'll give you a quick example from the testimony that was presented here. It talks about how Hydro One monitors satisfaction levels among large, mid-size and residential customers, and it has achieved good results.

"Large customer satisfaction increased from 42% in 2002 to 91% in 2006. Mid-size customer satisfaction in the same period increased from 58% to 74%. Residential customer satisfaction continues to track in the 80% range. The company has set a goal to have 90% satisfaction across all customer segments by 2010."

I picked that as one example where they've given us a piece of information outlining some of the success they've had, and all I'm suggesting is—again, obviously, to be reviewed by the committee—that we provide a little bit more balance on some of the items they brought forward where they are making progress and success. I take Mr. Hampton's point that we have to obviously deal with outstanding issues, but at the same time, we're here to do a review, and I think a review contains the positive as well as some of the challenges.

The Chair: Thank you. Any further, before we look at—

Mr. Yakabuski: I just want to ask a question, and it may be entirely my own fault and my own responsibility. I subbed in on the committee when Hydro One was in for their submission to the committee. Of course, I'm now subbing in again. I don't know when the members of the committee get this stuff, but this is the first time I'm seeing it, this morning. I did get the draft from another member, a permanent member, of the committee, although I wasn't here last week, but a lot of this other stuff I'm seeing for the first time this morning.

So I don't know what the process is, if it's up to us to get this stuff. But if somebody's been subbed in on the committee specifically where it's a critic's role, I don't know if the committee clerk can be directed to ensure that that member of the Legislature gets that stuff directly. We all know, as members of the Legislature, that sometimes we don't necessarily—if it has to come from another member, unfortunately that can be missed sometimes. I have not had an opportunity to even review Hydro One's response to the submission by the Society of Energy Professionals.

Those kinds of things, I think, would be helpful: this chart on power outages and health and safety record, and all that kind of stuff. So if that would be possible in the future, or if it is our responsibility, if we're aware of that, I guess we'll have to deal with it another way.

The Chair: I'd like to direct the committee's attention, then. If we look at page 3 and the suggestions there for recommendations, I seek your comments or approvals on what's here.

Mr. Hampton: Recommendations?

The Chair: Yes, and perhaps, Carrie, you could just give us a sense of the overview of the first one and then the second one.

1020

Ms. Carrie Hull: What I had done the last time we met was just a brief summary, and that's what I was

prepared for. It's just that Mr. Parkinson had outlined before the committee Hydro One's efforts to improve its health and safety record.

Hydro One states that it has a two-phase program. The first phase was geared towards moving Hydro One into the top quartile of Canadian utilities on measures such as lost-time injuries. A lost-time injury is when the injury results in the employee's absence from the workplace. Injury duration and serious or potentially fatal injuries were other measures. The second phase of Hydro One's safety program is to eliminate lost-time injuries. Mr. Parkinson told the committee that the original target date for the second phase, 2006, would not be met but that the company has made improvements.

As we recall, the committee presented information indicating that Hydro One is in the top 2% of high-risk firms because of its Workplace Safety and Insurance Board statistics. Mr. Parkinson verified that that information is correct but maintains that the ministry has made a mistake in its categorization.

Hydro One officials informed the committee that only one employee has died on the job in the last several years, and this is true. In 2005, an employee was killed. I looked at some earlier annual reports, and the last fatality occurred in 2000.

Hydro One did provide the committee with statistics pertaining to its health and safety record for the past several years. I looked on the Web and in the company's annual reports to find some further information. The reports state that there has been a reduction in serious incidents and lost-time accident frequency.

I just have some parenthetical information for the committee. Hydro One formerly published a detailed health and safety report. Hydro One confirmed that it does not publish this information any more.

I thought the committee might also like to know that the Canadian electricity authority evaluates the safety record of electricity utilities in the country, and it uses three statistics. The first is the lost-time frequency, the one that I stated. This is when an employee misses work because of an injury. The second statistic is the severity rate of an accident. That tries to capture, obviously, how serious a particular incident is. The third is the all-injury frequency. That's pretty much the broadest safety category. That captures fatalities, disabling injuries and all other incidents for which a doctor was called to administer anything beyond first aid. From what Hydro One has told us, it's focusing on the first two of those categories of safety measures used by the Canadian electricity authority.

There were many comments made by the committee on the day Hydro One appeared before us, but no direct recommendations were made, so I've done my best to formulate possible recommendations, which, of course, the committee is free to modify or reject.

The first one is to clarify the nature of the discrepancy between Hydro One's health and safety statistics and those used by the Ministry of Labour and the WSIB.

The Chair: Comments?

Mr. Hampton: Certainly, when you're dealing with any other industry in the province, it's the WSIB statistics that are important. You can have an annual report that says you're doing wonderfully; if the WSIB gives you a rating which says you're not doing wonderfully, that's the rating on which you are charged for workplace safety and insurance and all those things. So I think the first recommendation is a very important one. Every corporation in this province is rated according to WSIB statistics, and if there is a discrepancy between the information Hydro One is putting out and the records the WSIB is keeping, I think that's a pretty serious issue and one which needs to be addressed.

The Chair: Any further comments?

Mr. Yakabuski: I would simply concur that it is a significant issue, but I do believe the recommendation should address that in determining what the discrepancy is and what can be done to remedy that.

The Chair: All right, yes.

Mr. Milloy?

Mr. Milloy: Just to concur with number 1. I have no problem with it.

The Chair: Shall we move on, then, to recommendation 2? Any comments there?

Mr. Milloy: I'd like to ask a question of clarification. I have no problem with number 2, except my question is: "Publish regularly the complete health and safety statistics used by Hydro One, as reported to the Canadian Electricity Association," which is fair enough; that's asking Hydro One to do something. Then it says, "including information about how Hydro One ranks in relation to other utilities on all measures." My question is, and this is simply an administrative question, is that the Canadian Electricity Association that has that, not Hydro? Do you understand what I'm saying? I have no problem with the intent of it. I just meant, can we ask Hydro One—are these available from the Canadian Electricity Association? You see my question?

The Chair: Go ahead, Ms. Hull.

Ms. Hull: As far as I understand, CEA ranks the utilities that report to it. I've seen ranking information on other utilities' websites.

Mr. Milloy: So yes, Hydro One would have access to that. Fine.

Mr. Yakabuski: Would this recommendation suffice in achieving the going back, if you want to call it that, to where Hydro One used to formally publish detailed information on its accident record in an annual report? That could be part of the recommendation as well, that they revert to that practice so that that information would be published on a regular, annual basis. I'm not sure; maybe this recommendation covers that.

The Chair: Mr. Hampton, did you have something to add?

Mr. Hampton: I think we should be insisting that Hydro One make available—is it the Canadian Electricity Association or the Canadian electricity authority? What is it? On page 2—

Ms. Hull: I've chosen both names, so obviously only one of them is correct. I believe it's the Canadian electricity authority. My apologies.

Mr. Hampton: Okay. I think what we want—and the first recommendation gets to this—is the information that the WSIB uses, because that's the important information. That establishes your WSIB rate and your WSIB penalties. The second one is, we want Hydro One to provide the same information that other utilities in Canada provide so that we can make meaningful comparisons about what it's doing relative to other utilities, which is the second recommendation. The first recommendation is what it's doing relative to what WSIB wants.

The Chair: All right. Thank you very much. We'll move on to the next section, which deals with the skilled labour shortages, beginning in the middle of page 3. If you look at the top of page 4, we have a possible recommendation at that point. Ms. Hull, if you wouldn't mind giving a little overview of that.

Ms. Hull: All right. I'm on page 3. The day of the hearings, Hydro One informed the committee that the company would be facing a shortage of skilled staff in the next few years. This is an industry-wide problem, but officials also blame the situation on limited hiring in the past 10 to 15 years, combined with a voluntary retirement program that had depleted their labour pool. Furthermore, Ontario's universities and colleges are no longer offering programs tailored to Hydro One's needs because of reduced hiring in previous years.

Hydro One told the committee that it's established an apprentice program and now has approximately 400 apprentices being trained. Hydro One also indicated that it's developing partnerships with colleges and universities to re-establish the training programs. Officials at Hydro One are also involved with the Electricity Sector Council, which is working with these colleges and universities to establish more apprenticeship and training programs.

On page 4, recommendation 3 is, "Continue to collaborate with colleges and universities in Ontario and elsewhere in Canada to establish training and education programs suited to Hydro One's needs within the next one to three years."

The Chair: Thank you very much. Any comments with regard to this recommendation?

Mr. Yakabuski: I think, certainly, continuing to collaborate is good. But there should be a report back with regards to what kind of progress we're making on these issues, because collaborating with colleges and universities is one thing, but actually achieving results to ensure that we have the skilled labour to provide the service that's going to be required as these people retire from the business, so that we can carry on seamlessly down the road—there should be progress reports to see, if we're short X number of skilled technicians today, where are we a year from now? Where are we two years from now etc? So, yes, we're collaborating, but as time passes on, we find we're getting further and further behind the eight ball. We should have reports as to how we're doing so

that we don't degenerate into a situation that will be very, very difficult to recover from.

1030

The Chair: Any further comments?

Mr. Hampton: Could I ask staff of the committee, what is the usual procedure for reporting back? Are there mechanisms to ensure reporting back in terms of this kind of committee? This was one of the areas where both the Society of Energy Professionals and the board and management of Hydro One agreed. They both agreed that there is a critical shortage of professionally trained and skilled people in the area of transmission engineering and power engineering. They both agreed, if you look at the number of people who have left already, if you look at the number of people who are scheduled for retirement, that there is a real crunch coming.

I think if we're to do our job, we should be insisting on an annual report back from Hydro One about what progress is being made here in terms of the co-operative development with academic institutions and in terms of the recruitment of these kinds of very skilled and very unique trained professionals. So I'm asking, what provision do we have to ask for a report back on, say, an annual basis?

The Chair: I know you asked staff, but I can just tell you that in much the same way as public accounts has the ability to ask for some response back on its recommendations, this committee would be able to as well.

Perhaps if there are any additions to my comments from staff?

Mr. Larry Johnston: I would just say that the last reports to this committee began with a review of responses to the previous report, so this committee has a history of asking for follow-up.

Mr. Hampton: Then I think we should ask for that follow-up. I think we should ask for a report back on an annual basis as to what progress is being made and an update on what the potential shortages of skilled people are.

The Chair: Any comments?

Mr. Milloy: I have no problem with the idea in principle of them reporting on their progress. I do wonder about reporting to this committee in the sense of, would it not be better to mandate them to make it part of their annual report or to make it as we have in the earlier sections when we talk about health and safety? I'm just not sure exactly where it goes in the sense of reporting back to the committee, with the greatest respect to the committee and all its members. There is a letter somewhere—correct me if I'm wrong—that is received at some point, but if we said as part of its annual report—again, I'd have to turn to research for the different mechanisms that might be available to Hydro One. Presumably, they have an annual report. I don't know if they have other documents that are tabled publicly or whatever. As I say, you're the experts here.

The Chair: I will defer to staff to give us further detail, but the idea is simply that because these are of particular interest to this committee, there is that oppor-

tunity to get some kind of response back to the committee.

Perhaps you'd like to add any further comments?

Mr. Johnston: I would just say that this committee has begun conducting reviews of agencies after a 10-year hiatus. When this committee was reviewing agencies in the past, it was an ongoing process, so that each year, when new agencies were reviewed, the report for that year would contain statements about progress made in response to previous reviews. I don't think this committee has established its procedures with respect to follow-up.

Mr. Hampton: Then let me make the case: If we walk away from here and don't require an annual report back on this kind of issue, and then we find out two years from now that this hasn't been working very well and that you don't have enough power engineers, you don't have enough skilled people, then Hydro One hasn't dropped the ball; I think this committee will have dropped the ball. Simply saying to Hydro One, "We want a report from you once a year on what progress you're making on an issue that you agree is critical, that you agree is fundamental to the electricity future of Ontario," is not too much to demand of a company that is a multi-billion dollar business and that is central to the future economic success of the province. If we get a report back a year from now that says that despite Hydro One's best efforts they have not been able to move very far with community colleges and universities, I would want to know about that. That would be more than an amber light; that would be the blinking red light.

So just to write a recommendation saying, "We recommend you do this," but then not require a report as to whether it has been done, I don't think this committee will have done its job.

Mr. Milloy: I've never suggested that we not ask them had it been done. I'm finding a mechanism that has a bit more permanency and profile. I think we're splitting hairs a little bit in the sense that it would have the same effect that annually they report through a mechanism. As I say, if we're going to get back into the business of doing this—this is similar to what goes on in public accounts. It may be different. I'm just sort of throwing open the questions.

Mr. Yakabuski: I appreciate everything that's been said. I don't know what the powers of this committee are, to be quite honest with you, but in addition to reporting to this committee, now that we are possibly doing these reviews on an annual basis, certainly they should be reporting back to the Ministry of Energy as well on a regular basis as to the progress. Being that the province is the single shareholder of this utility, I think it's incumbent upon them to let the shareholder know what kind of progress they're making and, probably even more importantly, that they report back on a regular basis to the ministry as to what kind of programs are in place at the various educational institutions. That's certainly something that—you know, every fall you're going to be determining who has programs in place that are going to

be able to make the engineers of the future, the kind of employees we need for Hydro One. So I think that's something that should be part of their ongoing dialogue as a utility in reporting back to the ministry responsible for them.

The Chair: If I could just explain a little bit about the process in public accounts, it means that those very specific areas of concern that the committee has identified are the ones in which the committee has, if you want, a vested interest through its process to have a response from the agency being looked at.

So to respond to a couple of the rhetorical questions, I guess, that have been raised by members, I would just say that it's within the power of the committee simply to set a timeline. Whether it's a year from now, whether it's less time, is something that the committee can determine. It can be very, very specific. When you're talking about the kind of public reporting that an agency would do in an annual general report, obviously that's the creation of its authors. It's not necessarily going to be the very specific issues that have come to light and have come to the attention of the committee.

1040

So I would just suggest to you that this might be an action that you want to consider as opposed to making a decision. We've already talked about the fact that this is the first draft and there will probably be a second, so I would suggest to you that for the moment we put aside that particular issue and look at it, upon reflection, at the next opportunity that we have to look at this report, because obviously making a decision on the basis of one particular recommendation isn't necessarily what you want to do at the end of the day. You want to be looking at the report as a whole and whether or not there are aspects of it that you wish to have responded to by the agency and, obviously, what a realistic timeline is for that kind of response. So I would suggest that we move on but that you keep in mind this discussion and be prepared to comment further when we come back to the next draft.

With that, can we come to some conclusion on recommendation 3 and move on to 4? Mr. Hampton.

Mr. Hampton: Recommendation 3 as it stands is fine to me. I would strongly urge that we add a sentence: "Report back to this committee on an annual basis re progress being made." Add that sentence, because if I look down at the next recommendation, number 4, it deals with a similar issue. It seems to me that there are at least three or four really serious issues in this report. If we're being thoughtful, we would require Hydro One to report back what's happening on these issues.

The Chair: Is there any further comment on that? Yes, Mr. Milloy.

Mr. Milloy: I think we're all agreeing with each other. I have no problem with recommendation 3, and I have no problem with a mandate to report back. I think the point, if I understand correctly, that you're making, Chair, is that, at the end of the day, as we're at draft number 53 or whatever of this, we may have a series of recommendations that we're going to ask for them to—

we're in the process as a committee to develop a whole framework in which we're going to be dealing with these agencies over time. For the purposes of draft one, I think we're all in agreement on 3 and its thrust forward. I think what you're saying is that there may be some flexibility on how we want to frame some of these if we are looking for a specific report back, so I don't think there's a great deal of room between us on these things—or space, or whatever the term is.

The Chair: Thank you. Can we move on to number 4? Mr. Hampton has pointed out that, obviously, if we are asking them to appoint a committee, you want to know whether they have done so. Any other comments about this? Ms. Hull, if you would just add a few comments.

Ms. Hull: We're moving on to the next issue. We're on page 4 still. The Society of Energy Professionals contended before the committee that part of the reason for the shortage of technical workers at Hydro One is because the organization has engaged in a hiring freeze of new society employees and has failed to utilize the skills of existing society employees. The society also alleges that the shortage in technical workers has forced Hydro One to rely on costly contract employees.

Mr. Parkinson told the committee that there were 750 society members when he became CEO in 2002 and that that number rose to the high 800s in 2005. The society has countered that there were 1,032 members employed at Hydro One prior to the strike and that there are now only 781. Information provided by Hydro One—actually, this was in their files presented prior to the first committee hearing—states that 16% of all employees were non-regular or temporary in 2002; in 2005, that figure was 23%.

So recommendation number 4 was formulated by the society, and that recommendation reads: "Appoint a committee to make recommendations to Hydro One on managing the human resource shortage in the energy sector, particularly in the areas of succession planning, recruiting, mentoring, training and maintaining the company's existing complement of skilled technical workers."

Mr. Yakabuski: They're suggesting that we appoint a committee—is that what they're saying?—or that Hydro One appoints a committee?

The Chair: In the strictest grammatical terms it doesn't tell us, does it? It just says "appoint."

Mr. Yakabuski: So the answer would be, we don't know.

The Chair: You can draw your conclusions there.

Mr. Yakabuski: But it's hard to support or be opposed to a recommendation if we don't know what that recommendation is about to mandate.

The Chair: Would you be interested in making a recommendation to change that recommendation?

Mr. Yakabuski: I guess we could do that.

The Chair: That's why we're here.

Mr. Hampton: Can I make a suggestion? I don't think this committee wants to manage Hydro One. That's not our job. Whether you agreed with Hydro One man-

agement and the board or whether you agreed with the Society of Energy Professionals, what really struck me as unusual is when you have people with Ph.Ds in physics and Ph.Ds in power engineering and Ph.Ds in computer science coming before a committee and making some of the allegations that were made. It says to me that there are some serious human resource management issues that this organization ought to make a priority. I think all we can do is recommend to the Hydro One board that they establish a committee to look very seriously at these issues and just give us a report on an annual basis as to what's happening. I don't think we want to have a legislative committee or anything like that.

I was disturbed. I was shocked by what I saw and heard that day: people who have very high academic credentials and who obviously are doing very important, responsible, almost critical jobs in the organization alleging that there is no succession planning or that the succession planning that's being done is being badly done, etc. When those kinds of allegations are made, whether they're true or not, the fact that they're being made by people who have such high academic and professional credentials says to me, "There's a problem here."

I think it behooves us to say to the Hydro One board that we recommend that the board establish a committee to take a closer look at this. They might come back in a year and say, "We think we've solved our problems," but I don't think we've done our job if we don't at least make that recommendation that they do some further study of what's gone wrong here.

Mr. Milloy: I'm sort of holding my tongue, Howard. I want to get that copy of Hansard for the next time I speak in the House, having a Ph.D. myself and, some people even say, having a responsible job, but I don't know.

I agree with Mr. Hampton that we shouldn't be micromanaging the company. I'm wondering, taking into account that this is just the first draft, could we take 3 and 4—I don't have wording, Madam Chair right off the top of my head; I apologize—and basically say, "Look, one of the big issues here is working with colleges and universities and training and education programs. We have areas of succession planning, recruiting, mentoring, training, etc. These were concerns that were brought to the committee. We want to encourage Hydro One to focus on these and to report back to us on the progress that's being made."

I get a little bit leery of appointing a committee or appointing a subgroup or appointing whatever. Hydro One is a large company. We can argue back and forth on it, but they go through some of the steps they're taking, the various groups and organizations they're part of, the consulting they're doing, and all that. If we could roll this into a "Hey"—to echo what Mr. Hampton said—"this is an area of concern, not only at Hydro One, but within the industry. What are you doing? Can you report back?" I think that might be a way forward so that we're not micromanaging it.

1050

Mr. Yakabuski: With respect to Mr. Hampton's comments, clearly there's a problem, or we wouldn't have the

issues that we have that we're not going to be talking about today. The recommendation is talking about dealing with shortages of skilled people, not about labour relations, and we have some recommendations in the next section with regard to labour relations. So unless we're going to skip this one and go over to that one—not that they're not somewhat related, because labour relations and the number of people you have doing the jobs of those people is certainly a part of the agreements in the collective agreement process. But we are talking about labour relations in the next section. Right now we're really talking about how we're going to address the labour shortage, and that was the appointing of a committee to manage those human resource shortages. If it's Hydro One that we're going to have appointing that committee, then I would suggest that recommendation 4 is fine within the amendment to indicate that Hydro One appoint a committee to do just that. Then we can move on to labour relations in the next recommendations, or we could roll it into one.

Mr. Milloy: My idea on the table is that we ask research to roll 3 and 4 into one to make a general concern. I'd like to clarify—

Mr. Yakabuski: I'm thinking of 5 and 6.

Mr. Milloy: Okay, I was talking about 3 and 4. I have to clarify, I wasn't talking about labour relations. I'm saying that the issue of collaborating with colleges and universities to establish training and education programs and then the lists of succession planning, recruiting, mentoring, training and maintaining the company's existing complement of skilled technical workers—

Mr. Yakabuski: —could easily be rolled into one.

Mr. Milloy: We could roll it into one and ask them to report back on what they're doing. As I say, the appointing of a committee: We're not here to micromanage it. They obviously have mechanisms within the company to do it. So that would be my suggestion. Again, to clarify, I wasn't getting into labour relations, recognizing that that's on number 5.

Mr. Hampton: I don't have any problems rolling 3 and 4 together as long as the one recommendation covers what is in 3 and what is in 4 and that it has a report-back mechanism. We're highlighting for them what we found disturbing and to a certain degree worrisome. Given the recommendation, they have to deal with this and we want a report back.

The Chair: I think we've established consensus on that. Certainly, when you look at 4, which is dealing with a human resource shortage, and the other one dealing with education and the opportunities, then it would seem quite logical.

The next area is one already alluded to. That, of course, is the section on labour relations.

Ms. Hull: I'm going to summarize this in one hopefully fairly neutral sentence. The relationship between Hydro One and the society remains acrimonious, and we've heard presentations from both sides to this effect. The society presented several recommendations to the committee. I'm now on page 5.

Recommendation 5 is that the government appoint a committee to review the past management practices of Hydro One and to monitor the current management practices, including the use of contractors.

Recommendation 6 reads that Hydro One be strongly encouraged and provided with the assistance necessary to restore healthy labour relations and to improve employee morale at the organization so that management and employees can return their focus to the business of planning and carrying out the safe and efficient delivery of electricity to the public.

The Chair: Comments?

Mr. Milloy: I'm not very comfortable with either 5 or 6 for the simple reason that the group that came forward about what these recommendations are made of also told us about their appearances in front of the Ontario Labour Relations Board. We had about 18 pounds worth of material. I don't think it's the job of this committee to start to take sides for something that's before the Ontario Labour Relations Board. I think that the legislative research has given an overview of what was brought forward. I'm leaving it to the Ontario Labour Relations Board to deal with this issue. They brought that forward, and I think it would be inappropriate for this committee to involve itself by directing and, in a sense, taking sides.

The Chair: Other comments?

Mr. Hampton: I have a slightly different view. I think most of us who were here that day were shocked to see the degree of animosity between a union, a professional association which is mainly made up of people with very high academic credentials, many of whom are managers in the organization, and certainly they direct the work of other employees at Hydro One. It was certainly apparent to me that there's a pretty serious labour relations issue there. I don't think we have to take sides. But I don't think we're doing our job if we don't say in this report that it is apparent to us that there are some serious labour relations issues at Hydro One that, as a priority, need to be addressed, and we recommend that the Hydro One board and Hydro One management continue to seek to create some better employee morale and better labour relations, that that be a priority for the organization and, there again, that we get some kind of report back on what's happening.

If what we saw here that day, if that animosity between mid-level managers and senior-level managers, continues, I don't know how this organization is going to function in the longer term. Frankly, I found it a bit scary that some of these people might be controlling the switch. I think it behooves us as a committee to say that.

These are not people who go out and work on the line. These are the folks who work in the control centre. These are the folks who direct the work of other people at Hydro One, and it was very clear that there are serious labour relations problems there. I think it's important that we highlight that in our report and that we recommend to Hydro One that the Hydro One board and Hydro One management take serious steps to try to address issues of employee morale and better labour relations, and that we ask for a report back.

Again, we're not trying to micromanage. We're simply saying, "Folks, you've got a serious issue." That was apparent to everybody who was here that day, including the media.

Mr. Yakabuski: I certainly agree for the most part with what Mr. Hampton has said here. I'm not a labour lawyer and I do understand that there are issues that are before the labour relations board. But they're going to be dealt with and ruled on, "You were right; you were wrong," or "You were right and you were wrong," type of thing. It may determine who was at fault and who was not at fault in a particular grievance. That's the way I see it as working. I'm not a labour lawyer so I don't understand those processes completely.

But what we are talking about is the air of functionality in a major utility, the biggest utility in this province, and how it's going to function. If management-labour relations are allowed to deteriorate to a point where the acrimony between the two sides makes it difficult for that utility to function efficiently, then I think it is our concern. It's not something that is about a labour relations dispute; it is about the environment in which we operate. So I think there is validity in recommending to Hydro One that we deal with what are the core problems here with the relationship between this society and the management of Hydro One.

There may be some issues that can be dealt with from a labour negotiation point of view, and there may be some underlying issues that have to be ferreted out in some way so that we can actually ensure that this utility, with all of the other challenges we are facing as we go forward here in Ontario, functions at the highest level of efficiency. If there is a way to improve the labour relations, notwithstanding specific disputes, then I would think that that is a fair recommendation.

Mr. Milloy: Notwithstanding all that's been said, thinking back to that day, thinking back and taking Mr. Parsons's advice—I'm not going to get into the details, but we had all sorts of issues and items brought up on different sides, and taking a look at the document that's been provided by Hydro One, where they go through some of the accusations that were made and provide their responses and that sort of thing. This has gone to the Ontario Labour Relations Board and I don't think it's for our committee to start saying that there are these grave problems, that we should have committees and that we should have assistance necessary to restore.

1100

I think there are so many assumptions in 5 and 6 which we're not in a position to pass judgment on. I just can't see us including them. I'm very uncomfortable with us getting into 5 and 6. As I say, we've summarized some of the details that were brought forward and there are mechanisms in place that are looking at it right now.

Mr. Yakabuski: With respect to the specifics of the recommendations, I'm not saying that's the issue—appointing committees or whatever. I don't necessarily disagree with Mr. Milloy. We're not in the business of micromanaging Hydro One because we're not capable,

quite frankly, of doing that. But I believe some kind of recommendation, directive or whatever to Hydro One to address its labour relations situation with the Society of Energy Professionals is warranted. No one can deny that we've clearly got a significant labour management problem there. I don't think it would be right for us to simply walk away and say, "Let the Ontario Labour Relations Board deal with some of those specific grievances," and not address the underlying problem, which I would suggest is a real mistrust between two parties. Sometimes in your own family you have to sit down and have a chat with your teenage kids or whatever, because sometimes they just don't see the world through your eyes. They probably never will, but sometimes a little chat doesn't hurt, and we need to see the world sometimes through their eyes as well.

When a group comes and makes these kinds of accusations, whether they're valid or not, when they stand up publicly and make them, there's obviously somewhat of a poisonous atmosphere between two groups here. I think it is incumbent upon Hydro One in its own interest to ensure that it operates at the highest level possible, to face some of those issues, not necessarily in a court of law, but reflecting on its own house, if you want to call it that, and seeing if there's some way they can improve those practices, because that tack will be beneficial to every one of us.

Mr. John Wilkinson (Perth-Middlesex): Just following up on what my colleagues have been saying, in a sense, what you just said is what the committee is agreeing to, that the recommendations, I think, would do more harm than good. Given the situation there, for us to even intimate that we want to be somehow involved in a thing that's in front of the Ontario Labour Relations Board right now I think is highly inappropriate. But there's a concern that's been expressed by both sides who have come and testified to us and I think we all agree—

Mr. Yakabuski: I'm sure you share those concerns.

Mr. Wilkinson: Yes, and I think we all agree—I mean, it's important for us to be balanced on that. The two that we have here are not going to do what we're all agreeing to do. So I think it's a matter of finding wording.

Mr. Yakabuski: I agree with you on that.

Mr. Wilkinson: Jumping into this, I can see how this could make the situation much worse. I think we'd have to be very, very careful about that wording and deal with that as a committee.

Mr. Yakabuski: Is there a recommendation we can draft that would satisfy—

The Chair: If I could just interrupt here, if you look back on page 4, you have a part of a sentence there: "The relationship between the society and the management of Hydro One remains acrimonious." It's in the middle of that last paragraph. I think that in order to come to some decision on the direction we want to give research in terms of a possible recommendation in place of 5 and 6, the committee needs to make a decision on some of the text that supports this. So I would just ask you to

consider whether or not that reflects what you want in the text of the report. Based on that conclusion, we will then be in a position to provide research with some ideas regarding 5 and 6. It would seem to me that there is consensus around the fact that we don't like 5 or 6. It seems to me, from the conversation, that we are agreed that obviously there is an issue here. It's not as if we want to leave this section out. Everyone seems to agree there's a problem.

I would just ask you to think, first of all, whether that is something that you want to be in the background of the report. If that is accepted, then I would suggest we take out the sentence at the top of page 5, which says, "The society made three specific suggestions...." That would be omitted, and we would give direction to staff with regard to a general, agreed-upon statement with regard to labour relations.

Could I have some comment, then?

Mr. Wilkinson: I think it would be incumbent upon us, as Mr. Milloy was saying, that we also receive testimony from the other side, because my understanding is that they responded to some of this. Again, all around the table, I think we all agree that it is good public policy that there are good labour relations at Hydro One between, for example, the society and other unions that are there and management. I think we would all sleep a lot better at night knowing that was a good relationship and not what one side has described as acrimonious and another side has described as not.

The Chair: Frankly, that's why I raise this issue, because I think it's really important.

Mr. Yakabuski: Does Hydro One dispute that the relationship is acrimonious?

Interjections.

Mr. Yakabuski: I don't think they dispute that the relationship is acrimonious.

Mr. Wilkinson: But what's in this report is something that one of the sides came here and testified on. That's what's here on the bottom of page 4: what one side said.

Mr. Yakabuski: Yes, but you implied that the other side would disagree with that assessment. I would suggest the fact that there are things we can't talk about—like that Coors Light ad we can't even talk about—that are not before this committee would certainly be sufficient evidence that the relationship is acrimonious.

Mr. Wilkinson: Given the Integrity Commissioner's recent ruling about it being very important for elected people not to be talking about matters that are before the courts or quasi-judicial bodies, I would caution, as Mr. Parsons did, that you shouldn't go there.

Mr. Yakabuski: We're not talking about any of the specifics, because that's not within our—

Mr. Wilkinson: Mr. Yakabuski, I'm uncomfortable with this entire discussion, given the very clear ruling from the Integrity Commissioner last week.

The Chair: Okay. I would really—

Mr. Hampton: That ruling of the Integrity Commissioner is being debated by a lot of academics.

The Chair: Excuse me. I want to keep us on the task on hand. I want us to come to some agreement on essen-

tially the text that is at the bottom of page 4, because it obviously is the background to whatever recommendation we want to suggest. I believe Mr. Milloy is next.

Mr. Milloy: Notwithstanding all the cautions, I look back at the report from Hydro One. I think that they do talk about some of the issues, some of which have gone to the OLRB. They conclude by saying, "Hydro One management is attempting to establish a normative labour/management relationship which is experienced by most employers and bargaining agents in the province of Ontario."

To answer Mr. Yakabuski, that's the case that they're putting forward. I'm wondering whether we should include something summarizing Hydro One as saying that they're working on it, and then in a sense balance those two. I mean, it's fair enough. The society did come forward and say that it remains acrimonious, and the other side said that.

1110

The other question is, are we just talking about the Society of Energy Professionals here? There are other bargaining units. It starts to get very complicated. Could we just, as I say, flesh out that a little bit more to say that there were concerns brought forward, Hydro One is suggesting that they're trying to re-establish the normal labour-management relationships, and the committee has taken note of that? As to a recommendation on that, I think everyone knows, and Mr. Wilkinson has echoed that, that this side of the table is not overly interested in recommendations. But obviously, if Mr. Yakabuski or Mr. Hampton wants to put forward something that is more general or balanced, we can discuss it.

Mr. Hampton: When I look at what's written on page 4, it's essentially history: "In 2005, a strike by the Society of Energy Professionals, the bargaining agent representing engineers, scientists, accountants and information technology professionals working at Hydro One, lasted 105 days." I mean, that's history. So I don't think we have any problem with putting something that factual in our report. The society did make it clear before this committee that they think the labour relations are acrimonious. It is a fact that they have filed an application with the Ontario Labour Relations Board.

If the government members want to put something in about how Hydro One, in response, says that it is trying to establish a more normal relationship with the society, there's no problem. I don't see a problem with that. However, I think as a committee, whether we do it as 5 or 6, or you do it as 5 and 6 combined, we have to say—I think we would be shirking our responsibility if we didn't say that we're concerned about labour relations at Hydro One, we're concerned about employee morale, and that we recommend that the board and management at Hydro One redouble their efforts or continue their efforts to create a better working relationship with the Society of Energy Professionals and that we get an annual report back on what's happening.

That would suffice for me. I think it's balanced. Once again, we wouldn't be trying to micromanage the company, but I think it places a responsibility on the board

and the management to address what I certainly saw as a pretty serious problem on the day that they were here.

Mr. Yakabuski: I think there has to be something that recognizes that the problem exists and that we who are responsible to the shareholders of this corporation expect that there will be some—those shareholders expect that there will be some measures taken to try to restore those relationships. Notwithstanding, and I can only paraphrase what Mr. Milloy said in quoting Hydro One, that “We are attempting to restore”—we would expect that anyone would at any time make a statement that they’re going to be doing that. I don’t think anybody is going to make the statement, “We’re doing everything we can to destroy relations,” because that would be, quite frankly, silly. But I think it is incumbent upon us, some directive that efforts have to be made because these kinds of things are not positive developments for the operation of the utility.

We’re not casting aspersions on one side or the other. As Mr. Hampton said, we are not picking sides here. We’re representing the shareholders of this corporation and we think that some kind of a recommendation is necessary. It is not about assessing rightness, guilt or innocence or anything else. It’s about recognizing what was brought before us, identified as a significant problem in a significant utility, and taking some kind of action to mitigate what could be a bad situation for the utility.

Mr. Milloy: Listen, I don’t think there is a general consensus that the situation at Hydro One is, as has been put forward, that everyone recognizes the problems. I mean, I look at some of the things they’ve done. I’m not taking sides here; I’m just quoting:

“Hydro One did want members to put the strike behind them, and the vast majority of staff did so. However, when a company can run for 105 days without 1,000 employees, it is inevitable that certain things are going to change. It would have been irresponsible for the company to go back,” blah, blah, blah. “It was incumbent upon management to ensure”—it goes on and then it talks about attempting to establish a normative relationship.

Ms. Burak, in front of the committee, said, “For the record, we have an excellent relationship with our other bargaining unit partners, including the larger bargaining unit, the Power Workers, the president of whom is a member of our board. We look forward to sorting out our relationship issues with the society at the labour board,” blah, blah, blah—I mean, she continues etc. I don’t mean any disrespect; I’m just pulling out the quotes.

I see a situation—obviously, some tensions have arisen through the strike. We have things in front of the board. We have Hydro One telling its side of the story; we have the union in front of us telling its side of the story. I’m just saying, you know what, folks? I think this committee can make note of it, can make note that both sides came forward with it, and then we move on and allow the mechanisms of the Ontario Labour Relations Board and other mechanisms that exist in between to go forward. I’m uncomfortable in going in and reaching some of the conclusions that have been said around the

table. I didn’t get that from what was brought forward, because I heard lots of folks who were in the middle of a dispute which is where it should be: in front of the proper boards.

The Chair: Okay. We need to—

Mr. Hampton: I can only say this: We would have to dissent from that point of view. In my view, not to say to the Hydro One board and Hydro One management, “It’s pretty apparent you’ve got a serious problem and you need to redouble your efforts to resolve this problem,” for us not to make that kind of recommendation, I think we’d be shirking our responsibility. I couldn’t agree to a report that tries to gloss over what is obviously a continuing and serious problem.

Mr. Wilkinson: But I say to my friend, the fact that a group came here and made—and I’m just reading the report—serious allegations that they were not prepared to substantiate—

Mr. Hampton: We don’t know that yet. You don’t know that. That’s the subject of a lawsuit, so you don’t know that.

Mr. Wilkinson: That’s right.

Mr. Hampton: You don’t know that.

Mr. Wilkinson: So why are we putting it in the report?

Mr. Hampton: We’re not.

Mr. Wilkinson: I’m reading the report: “The committee expressed its concerns to the society about serious allegations it raised about the conduct of the Hydro One CEO without providing substantiating details such as dates and names of witnesses to the alleged actions.” That’s in this report that we’re dealing with.

Mr. Hampton: As I said earlier, I think the first part that’s written on page 4—which is history, all right? There’s nothing wrong with that. And then simply ending it with “Hydro One responded that it’s using its efforts to try to normalize relations,” because—

Mr. Wilkinson: So we agree. That shouldn’t be in there.

Mr. Hampton: Yes.

Mr. Wilkinson: And we would agree that it would characterize—

Mr. Hampton: I would take that last sentence as being stuff that does relate to a possible court action.

Mr. Wilkinson: Which shouldn’t be in here; I think we all agree.

Mr. Hampton: Shouldn’t be; no.

Mr. Wilkinson: Yes. And in regard to what the society said, just so we’re clear, “In the opinion of the society,” this is what they’ve said. Just so we’re clear about that. If we’re going to put this in the report, we’re not making a judgment on that. It’s their testimony and their opinion.

Mr. Hampton: Absolutely.

Mr. Wilkinson: And we have heard testimony that conflicts with that, although from a public policy point of view, we know that it’s in the best interests of everyone that there are good labour relations between Hydro One and its employees—not just some of them, but all of them.

Mr. Hampton: As I said earlier, if you want to include a section where Hydro One represents that it's doing its best to normalize relations—we heard from them and if you want to put that in the report, that's fine.

The Chair: If I can just jump in here, because I think we've gone around the basic issues on this, I would suggest, subject to your agreement, that we ask research to look at this section of the report. There seems to be consensus around coming up with a more balanced section here that we can review and have a look at. I think there has been some clear indication of areas that would be inappropriate to include, but definitely ones that need to be added. So I think, based on those comments we have had, we'll ask research to prepare some changes in the section on labour relations, starting at the bottom of page 4 in the text. It will leave us a decision to make, based on the context, of what kind of, if any, recommendation we want to put there instead.

1120

Mr. Wilkinson: Agreed.

The Chair: If that's a direction you're comfortable with, then I'd ask that you now turn your attention to the section on executive compensation. But before that, Ms. Hull has—

Ms. Hull: Would the committee like research to draft possible new recommendations, or would the committee rather address that on its own?

Mr. Yakabuski: When do we address them, if we're addressing them on our own? Do we sit down afterwards and chat about it? What's the process?

Mr. Hampton: I think we should make use of your professional skill and ability. You should do your best.

Mr. Wilkinson: With the direction given.

Mr. Yakabuski: She's going to need some direction.

The Chair: I think there has been a lot of direction provided. I guess that's what I am, as the Chair, assuming, by the conversation that we've had. I think the notion that we all agree on is that this section needs a more balanced text. If you wish, obviously it is the direction of the committee to give the researcher the opportunity to fashion a recommendation from which we can then take our discussion. Is that acceptable? Okay.

We're going to move on to page 5, and at the top of page 6 we're looking at a recommendation there. If there are no questions from the committee on the text, I will ask Ms. Hull to give us a brief overview on the rationale behind recommendation 7 on page 6.

Ms. Hull: The committee might recall that there were numerous questions regarding executive compensation levels at Hydro One. Members asked several questions regarding the apparently large increases in executive salaries over the past several years and the discrepancy between Hydro salaries and those awarded in other Canadian utilities of comparable size.

Hydro One officials responded before the committee that they take this issue very seriously. Since 2002, Hydro One has reduced management pension benefits and eliminated a long-term incentive program. Salaries are decided by a human resources and public policy com-

mittee which recommends the salary and short-term incentives. The board and committee also receive independent advice from external consultants to determine the appropriate salary range. Hydro One stated that salaries for Mr. Parkinson and other members of senior management are calculated using the Hay system. A category called "all industrial" is used that enables comparisons to a long list of businesses of similar scope and size.

The committee expressed concern about this basis of comparison. The Society of Energy Professionals presented the committee with information related to compensation levels at comparable Canadian utilities, indicating that Mr. Parkinson's compensation was considerably higher than salaries for other CEOs.

That is the context for recommendation 7 at the top of page 6: "That the board revisit the issue of corporate compensation on the basis of a more appropriate comparator group, considering Hydro One's status as a utility and a publicly owned corporation."

The Chair: Comments?

Mr. Parsons: We're fine with that.

The Chair: All right. Any other comments? That's fine. Thank you very much.

We'll move on to the next heading, "Helicopter use," and immediately below that a recommendation that I think is pretty self-explanatory. Any comments on this particular area?

Mr. Hampton: On helicopter use?

The Chair: Yes.

Mr. Hampton: The recommendation is fine: "Maintain a log listing the names of all individuals using Hydro One helicopters." Could I just add one other thing: the purpose of the trip. I just want to relate this to some other events that we currently see happening.

One of the allegations being brought against this fellow named Lord Black is that there was a record of using corporate property, whether it was the corporate jet or other corporate property, for continuing non-corporate uses. They are very serious allegations. I simply think one of the things we should recommend is that you list the passengers who are flying, and what's the purpose of the trip. I think those are fairly elementary requirements if you're using what is in effect government property. Government is the sole shareholder in this corporation, and we want to ensure that things are being used for proper corporate purposes. Who's using the property and what's it being used for: Those are two requirements that got Lord Black into a lot of trouble, as far as I can see.

The Chair: Thank you, Mr. Hampton. Mr. Milloy.

Mr. Milloy: I'm sorry to say, Mr. Hampton, that I'm going the other way. This is two things: First, this is the committee trying to micromanage the internal operations of Hydro One. Transport Canada has rules and regulations about how helicopters are to be used, and logs etc. Obviously we can assume that the type of record-keeping which Transport Canada wants is taken there. The second thing: I actually take a little bit of, not personal offence, but I find Mr. Hampton's bringing up Lord Black to be a

little bit over the top. As a committee, as parliamentarians, we're dealing with Hydro One, we're dealing with the executives and management of Hydro One, and I don't think it's too much to say that we should have an assumption that people follow the rules, that people act according to the laws of the land.

Mr. Black has a case before court where he is being accused of breaking the law. To bring him in and somehow suggest that the executive and the management of Hydro One might be breaking the law—we all operate on the principle that people comply with the laws, that they comply with the rules and regulations. As I said, I'm not an expert on Transport Canada, but I'm certain that it has certain rules and regulations about noting flight times and paths and who's on it etc. I think we can assume that Hydro One follows those laws, as does every other government organization or government agency which has helicopters. This is a summary of what was brought up about helicopter use in terms of the recommendations.

We're going way beyond anything to do with government review. I work under the assumption that those in responsible positions follow the law, and to suggest otherwise is a bit over the top.

Mr. Hampton: The Transport Canada rules speak to something entirely different. The Transport Canada rules have to deal with safety, so if there were an accident or a crash, they would know how many bodies to account for etc. This is about setting some standards for the use, frankly, of government property. I think it's quite reasonable for us. We're not setting this rule in stone; we're simply saying to the board of Hydro One, "We recommend that you maintain a log listing the names of all individuals who use this corporate property and the purpose of the trip." I think these would be common sense recommendations. I can't understand why anyone would oppose them.

If a Hydro One board chooses not to follow them, that's their business. But I would say, if the Hydro One board chose not to follow these kinds of recommendations, then you'd better look seriously at who you're putting on the Hydro One board. These are just very common sense recommendations: What's the purpose of the trip—you're using very expensive government property—and who's using the corporate property?

The Chair: Any further comments?

Mr. Milloy: I don't think we need to belabour it. I disagree totally. We work on a situation where Hydro One has helicopters. The committee asked various members about the guidelines. It said, just quoting the report, "Hydro One officials clarified that use of company helicopters is confined to work-related business. It has been a long-standing practice to maintain a log listing the number of passengers, but not their names. Family members may fly with employees only under exceptional circumstances, where no practical alternative exists." They've outlined their policy. If we want to ask research to get them—I can't remember whether it's in the document—to perhaps include more detail on the policy, fine.

They have a policy. I think we work under the assumption that they follow the rules, and I don't know

what the point of the committee is to put in this log recommendation that Mr. Hampton is championing. He told us up front that he's championing it because he thinks they're breaking the law or breaking rules. I find that kind of logic a bit offensive. If people want to ask them for more, chapter and verse, on what their rules and regulations are, fine, but what's been put forward seems to make sense.

1130

Mr. Hampton: Let me be blunt. The corporate exec using the company helicopter to go back and forth to his cottage I think is misuse of corporate property. If the government members want to have a debate about that, I'm all for it.

The Chair: Any further comments? Are we comfortable with the text that is there? The question of the recommendation, then: Is it to be included? Is there a consensus here on this?

Mr. Hampton: We're dealing with the preamble here, are we not?

The Chair: I asked, and there was no question about the preamble.

Mr. Hampton: I have no problem with the preamble.

The Chair: I'm just asking now to be able to move on on the question of recommendation. If there's concern over including it, then obviously we have to make a decision.

Mr. Milloy: Madam Chair, if you'd like, I recommend that we drop recommendation 8. I think that's what you're looking for as a proposal on the table.

The Chair: Well, to move on, yes.

Mr. Milloy: That's my recommendation.

The Chair: Is there a consensus?

Mr. Hampton: No, there is not a consensus. I speak for New Democrats on the committee. We'd be very opposed to dropping recommendation 8. In fact, I think recommendation 8 needs to be strengthened with the words "and the purpose of the trip."

The Chair: Thank you, Mr. Hampton.

Mr. Joseph N. Tascona (Barrie-Simcoe-Bradford): I would support Mr. Hampton's recommendation with respect to number 8. It's clear that it has been a long-standing practice to maintain a log listing of the number of passengers, but not their names. Family members may fly with employees only under exceptional circumstances, where no practical alternative exists. From a safety point of view and I think from a corporate procedure point of view, why wouldn't you include the names and certainly the purpose of the trip in terms of dealing with this? If we want transparency in all government operations, which Hydro One is, then I'm quite flabbergasted that the government would take the position in terms of not being transparent and not wanting sound corporate procedures in place with respect to the use of taxpayers' money. Certainly there should be a recorded vote on this to deal with the government's arrogance—total arrogance.

The Chair: Further comment?

Mr. Milloy: Since this is draft one—and I apologize, because I know you’ve asked about the preamble and all that—can we get a little bit more clarification from Hydro One on what their policy is in this regard and how the log in use would fit into that? I know it was done in a bit of a confrontational situation in front of the committee. Maybe we could tease something out: if they outline how these trips are made and how they are logged etc., and Mr. Hampton’s point about names and reason for the trip and all that. Again, I say this because it’s draft one and we do have the luxury of a bit of time. Perhaps there is a recommendation we could come up with based upon their policy, because I think it was done very briefly.

The Chair: Further comment? Are you prepared to ask research to look further at the policy? Obviously it would come back in the next draft for any further discussion based on that information.

Mr. Hampton: Maybe you can tell us, Chair, or maybe members of the committee can tell us what “next draft” means in terms of timelines etc.? We’ve been asked to do a job here, and if the government wants to spin this off into never-never land, I’d be reluctant to do that. We heard the company’s policy pretty clearly. I don’t know what more there is to study about this. To me, the issue is one of simply recommending that Hydro One tighten up its procedures. I cannot imagine why anyone would be opposed to listing who’s travelling in the corporate helicopter and what the purpose of the trip is. I cannot imagine why you’d be opposed to that.

The Chair: Mr. Hampton, just to answer your earlier question, because we don’t meet next week, it would probably be three weeks before the draft would come back, because we do have two other drafts to look at.

Mr. Yakabuski.

Mr. Yakabuski: I think we should adopt the recommendation as it’s written. It’s not necessary to add the addition that Mr. Hampton recommends, in my opinion, because it clearly is their policy that the purpose of the trips is only confined to work-related business. We accept that they make those decisions based on their needs.

The reason that I support this recommendation: I would think that it would be good practice to always maintain a list of passengers any time a helicopter or a plane or a bus or anything leaves a depot, so to speak, so that we have a proper record in the unfortunate instance that something goes wrong. So a list of passengers’ names—we’re asking Hydro to keep a log; we’re not asking them to send the Toronto Star a weekly listing of who flew on the helicopter. We’re asking them to keep a log, and from the point of view of safety and good record keeping, I think that that is a reasonable recommendation to make to Hydro.

As I say, we’re not micromanaging; we’re not flipping over rocks here to see if we can find something. What we’re doing is based on stuff that came before the committee. We’re coming up with recommendations, and I think it’s a reasonable one to say, “Okay, keep a log of

the passengers on any flights of the Hydro One helicopter.”

I think the recommendation, as written, is fine.

Mr. Tascona: I just want to ask the person who made the inquiry of the Hydro One officials—because what it’s saying here is that there’s a long-standing practice. It’s not talking about a policy, the way this is written. “Practice” doesn’t necessarily mean that it’s corporate policy. It just may be something that they have done, not a recognized or written procedure. Did anyone in the committee clerk’s office who is here speak to the Hydro One officials?

Ms. Hull: This was information that was presented by Hydro One officials on the day of the committee hearing.

Mr. Tascona: So this is in the Hansard.

Ms. Hull: Yes.

Mr. Tascona: No one has spoken to Hydro One officials since that date.

Ms. Hull: Not on this topic.

Mr. Tascona: So there may not be a corporate policy with respect to this at all. The delay of three weeks doesn’t seem to make a lot of sense here. I agree with my colleague Mr. Yakabuski, but I also see the merits of what Mr. Hampton is asking for. Quite frankly, to delay this another three weeks, to say, “Well, do they actually have a corporate policy?” just seems to be an unwise delay.

1140

Mr. Wilkinson: Madam Chair, I know that I’m supposed to vote around here and be informed before I do so. Since it will make no material difference, I would feel much better voting on something if we actually had research clarify that. There seems to be some lack of clarity in regard to their normal practice or their usual practice and what their policy is. I’d like to know whether or not they actually have a policy. I think that question needs to be asked of Hydro One: “What is your policy?” We know that Transport Canada requires them to have a list of, obviously, the names of the people on the helicopters and when. I also want to know whether or not they are recording—because I don’t think we specifically asked them—the purpose of the trip. If that exists, I need to know that before I vote on this.

I would suggest to my good friend from Kitchener that perhaps we stand down this vote and ask legislative research to provide that clarity so that we don’t reinvent the wheel, because the issue may be that there is a disconnect between policy and practice. So let’s just get to the bottom of this. I just need to know that.

Mr. Hampton: It’s a practice. It’s not a policy at all; it’s their practice.

Mr. Wilkinson: Well, that’s what they said, but I don’t think anybody here asked them, “What is your written policy in this regard?” I think that also is a valid question that we should get to the bottom of.

Mr. Hampton: If I remember correctly, I did ask that specific question.

Mr. Wilkinson: Did they answer?

Mr. Hampton: Yes. It's in Hansard. I asked the very specific question, and they were very specific in their answer. It's a practice.

Mr. Wilkinson: And you asked, is their policy—

Mr. Hampton: I did.

The Chair: Just for a point of clarification, because the issue has come up in response to Mr. Hampton's question about the timeline, I would suggest to you that it is unlikely that we can finish the report in the time that remains this morning. So if the issue around asking research to look into the issues of policy versus practice is incumbent upon or dependent upon some issues around timing, I'd just suggest to you that it's unlikely that we can finish this report in the time that remains. So you might want to instruct research, if that's the wish of the committee.

Mr. Yakabuski: My recollection—I could be wrong, because I don't have Hansard in front of me, but I do believe that Mr. Hampton did ask a specific question with regard to names of passengers and that Mr. Parkinson responded that they don't record the names of passengers.

But, regardless of what's a practice or a policy, this recommendation basically is something that is not dependent on the practice or the policy based on what we heard our recommendation would be, that they maintain a log listing the names of all individuals using Hydro One helicopters. Notwithstanding what their policy is, or their practice, the recommendation of this committee is that they keep a log of the names of the passengers.

As I say, this is about good record-keeping and safety and ensuring that if there is an unfortunate incident they can go to their office or whatever and anybody doing an investigation—"Well, these are the names of the people who left such and such a depot and were on that flight." So I don't think we're talking about anything that is really unusual. If somebody is leaving the ground and going into an airborne vessel of some kind, I think we would want to know who's on that flight. I think that is a fair recommendation and one that the committee should accept as is. I'm prepared not to have the addition that Mr. Hampton recommends.

Mr. Milloy: I think we're getting way off down the road here. This is not clause-by-clause of a bill; this is the first round of report writing. I am prepared to withdraw my suggestion that we get rid of recommendation 8 and I want to suggest, to echo what other people have said around the table, that we beef up the section on helicopter use with more detailed information on policies, practices etc., and how it works in. Then, on 8, we'll have a context for it and perhaps even Mr. Hampton's suggestion that it talk about use could be put in. This is not some clause-by-clause, and it's a bit of a red herring to say, "Wait three weeks." Guess what, folks? We're going to be waiting three weeks to deal with the remainder of the report and to deal with the next draft of the report. This is part of the whole session. So I withdraw my proposal that we remove it and simply say that we provide a bit more context so that we can look at number 8 and even deal with Mr. Hampton's suggestion.

Mr. Hampton: With respect, the context has already been provided. I went over this in detail, not only with Mr. Parkinson but with Ms. Burak and other members of the board. In fact, I asked the question three separate times: "Is this the policy?" The first two times, the question wasn't answered, so I came back to it on page A-281 of Hansard. I said, "I want to ask the very specific question again: In the past, was it the policy of Hydro One to keep a log with the names of the passengers using the Hydro One helicopter? Has it been the policy of Hydro One in the past to keep the names of those people who are passengers...?" The response from Mr. D'Arcey: "I can only state that in my 28 years with the company, and having been a passenger and working on a number of crews, it has not been a requirement or a policy that all members, all passengers, on every flight done" with Hydro One "be recorded by name."

I was very specific about going after what the policy was. In fact, from their answers, both the first time I asked the question and then when I went back to it later, there isn't a policy. There's a practice, but there's no policy over there. I cannot imagine why we wouldn't recommend to them that they have a clearly stated policy on the use of the helicopter and a clearly stated policy, when the helicopter is used, that they'll record the purpose. It just seems to me that that's an elementary step of corporate responsibility: Who's using the helicopter and what's it being used for?

Mr. Wilkinson: Further to your point, though, I say to Mr. Hampton, if we're going to be clear on this report, then our issue is around the fact that there is, according to testimony we have, no policy and that there is a practice. If we're going to give them a suggestion, it shouldn't be "Just change your practice," if the issue here is that they do not have a policy in this regard. If we're going to write a report and we're going to be clear about this, let's be clear: The issue has to do with policy.

One would also assume the policy would go to use, not just who happens to be on the plane.

Mr. Yakabuski: Are we ever going to write the report?

The Chair: Oh, yes.

Mr. Wilkinson: Yes, we are. Let's make sure we're going to make it a good recommendation.

The Chair: We need to move on. We need to have a direction here. Are we going to instruct research in the intervening time to pursue this issue? Is that—

Mr. Yakabuski: I wouldn't see that there's much alternative because there's not a consensus. I'm prepared to allow the recommendation to stand. The government doesn't want that. We can't tell the committee what to do, so I guess we're going to have to go with their recommendation, which is to get more information and to come back at a later date to try to hash this out. Otherwise, we've got an impasse.

The Chair: All right. We'll defer, then, to research.

Mr. Hampton: Can I ask this? What other information are we seeking? I asked the question specifically three times when they were here, "What's your policy?",

and got the response, "It's not a policy. There's a practice." There's a requirement of Transport Canada that they record the number of passengers, but there seems to be no policy there.

Mr. Milloy: But in fairness, Mr. Hampton, you're the one who brought up the fact that you wanted to broaden the recommendation to include the purpose. I'm looking through Hansard—I may stand corrected, because I'm looking through it very quickly—and your questions were all about, "Is it the policy of Hydro One to keep a log with the names of the passengers using the Hydro One helicopter?" I don't see anything about the purpose. All we're saying—and as I say, this is a process. This isn't clause-by-clause of a bill; this is a process where we're going to have a chance to see it again in a new iteration with some research to get the chapter and verse of what their policies are around names, around purpose etc., vis-à-vis, and then we'll have a context to move ahead with a recommendation which might deal with the log listing names or it might deal with broader issues. I don't see where the controversy is.

1150

Mr. Hampton: Just to respond, maybe Mr. Milloy should read further. I asked several questions about the nature of the usage: Are family members of Hydro One employees permitted to ride on corporate helicopters; what would be the exceptional circumstances etc.? So I asked several questions, trying to narrow in on the policy here. The most we got was, "Well, exceptional circumstances." I don't think there's any more information to be elicited here. We went over this fairly extensively, not only with Mr. Parkinson and Ms. Burak but others who are supposed to be more intimately involved in this. I think we've got the information we need.

I move we amend the recommendation: "Maintain a log listing the names of all individuals using Hydro One helicopters and the purpose of the trip."

The Chair: We have a motion on the floor.

Mr. Wilkinson: I've been part of this debate. Without actually telling them they should have a policy, is it acceptable they keep a list? It should be a policy.

Mr. Hampton: Okay.

Mr. Wilkinson: Because—

Mr. Hampton: I accept that amendment.

Mr. Wilkinson: Your point is "exceptional circumstances." That is the point we're trying to make on this side. You've raised this concern and we're looking at this. I believe that at the moment we just need to get some more clarity from Hydro One before we vote on this and set this to bed. My point is, this is a work in progress. As Mr. Milloy said, we should not be trying to draft this without all of the information that we can readily get over the next few weeks from Hydro One.

Your point is that we should be pretty clear about a policy that they should have, not just a practice that we want them to do. We still allow them to have "exceptional circumstances," but have no definition as to what is an exceptional circumstance. So I follow your point,

but if we're going to do this, then let's do this right. That's my point.

I don't think we give the best possible report from this committee by dealing with it at this instant. If we stand this down, get some more research, you have my assurance that we're going to be dealing with this issue. We can move on to the others and work together on this.

Mr. Tascona: I think it's kind of clear that there isn't a policy. I'd offer to amend the amendment, which would read: "Hydro One develop a corporate policy on helicopter use, which shall include maintaining a log listing the names of all individuals using Hydro One helicopters and the purpose of the trip."

There is no policy and there isn't any more information to be gleaned here. I think it's good public policy for them to have a policy which will deal with these things. So I'm amending the amendment put forward by Mr. Hampton on this particular issue.

Mr. Hampton: I accept the amendment.

Mr. Tascona: Beautiful.

The Chair: Now we have an amended motion. Any further comments?

Mr. Milloy: Let me ask the hypothetical question. What happens if research were to talk to Hydro One and they were to produce, from their policy guidelines, a policy on helicopter use, after we've voted that they should?

Mr. Hampton: I think that question was already answered in the interrogation when Hydro One was here, because I went at the question from several perspectives.

Mr. Milloy: No, no. Mr. Hampton asked about a log. Anyway, I'm wondering, would the proposal Mr. Tascona is putting forward negate having research, at the same time, seek some clarification from Hydro One as to what their policy is?

Mr. Tascona: Yes, it would, because the language is clear. "Hydro One develop a corporate policy." Even if they have one, which I don't believe they do, based on the questioning by Mr. Hampton, it still doesn't preclude them from amending a corporate policy if they even have one. I think it's actually very instructive.

The Chair: Any further comments on the amended motion?

Mr. Milloy: At the same time, can we—perhaps you're going to say it's the next item: to ask research to provide more clarification in that section as to what their policy is, if they have one.

Ms. Hull: Would the committee like to see the policy if it exists, or should I just ask Hydro One the question whether they have a policy or a practice?

Mr. Hampton: As soon as you say "practice" you open the door to—their answers were clear. I don't think I could have been more thorough in how I asked the questions, and at no time did they say, "There is a policy."

Mr. Wilkinson: Then again—

The Chair: Yes, I just want to be clear that we have an amended motion on the floor and so this, then, is the issue to which I would want you to speak. Yes, Mr. Wilkinson.

Mr. Wilkinson: Madam Chair, the point that I want from legislative research, given the fact that they were in here—the top brass of Hydro One were asked these questions by this committee. I need to know, and it would be very informative for me in regard to the section that we are dealing with: Today, do they have a corporate policy? That's what I want to know before I vote on this: Today, do they have that? For me, I'd like to know whether or not the fact that they were in here and were asked these questions—whether today they still have practices, or whether or not they have now a policy on this, given the light that you brought to bear on this issue.

Mr. Yakabuski: Of course, if we ask today, does that preclude them from having one ready in three weeks? We're just dancing around here. Mr. Parkinson and Ms. Burak answered the questions, and I think it could be reasonably inferred that they don't have a policy with regard to logging passengers' names on flights, based on their answers to Mr. Hampton. I'm not talking about the original motion because Mr. Tascona has amended the motion, but I really fail to see why we need a clarification of what was already said in Hansard.

Mr. Hampton: I started out by saying, "What is Hydro One's policy with regard to the use of corporate helicopters?"

Mr. Wilkinson: Right.

Mr. Hampton: And the response was that "the answer to that is very simple. The use of company helicopters is for legitimate purposes only."

Mr. Hampton: Can you define 'legitimate purposes'?

Ms. Burak: Any work-related business that might require transportation and the use of the helicopter.

Mr. Hampton: Work-related business. I guess I have to ask the next question: How do you define 'work-related business'?

Ms. Burak: The helicopters are used for a wide variety of operational purposes: the travel back and forth of workers and people on legitimate Hydro business."

I asked, "Is it the policy of the company that all passengers are recorded," which is really the subject of number 8. So number 8, as we've urged it amended, really gets to the root of the questions we asked.

Mr. Milloy: What page are you on, Howard?

Mr. Hampton: A-268, at the bottom. It really gets to the root of it: a policy of maintaining a log listing the

names of all individuals using Hydro One helicopters and the purpose of the trip; in other words, what's the legitimate Hydro business?

Mr. Wilkinson: And you're not in support of this recommendation unless that purpose is in there, right?

Mr. Hampton: Yes, I want to see the corporate properties being used for corporate—I want to see that there's a policy.

Mr. Wilkinson: But I have an inference from what his answer was that they do have a policy, which he outlined to you, and then we got into this whole issue of what that practice is. So I want to know what the policy is, because if there is a difference between the practice and that policy, I think that's quite informative. That's what I want to see: Because when they started answering the question, he started listing off what the criteria are for the use of that helicopter. Did he just make that up, or is there a policy that he knows of, that the whole organization knows of, that it has to be work-related?

Mr. Yakabuski: If I could ask members opposite, and my colleague won't be happy with me, but we have a practice and we know they're practices that are only work-related business. Okay? They said that in Hansard.

Mr. Wilkinson: Yes.

Mr. Yakabuski: They have also indicated that they do not keep a log of the names of passengers on those flights. They indicated that in Hansard. If Mr. Tascona's motion was to be amended to remove the second part there and go back to direct Hydro One to bring in a policy of maintaining a log listing names of all the individuals, blah, blah, blah, could you support it, then, if the purpose of the use was amended out of there?

According to Hansard, that is their practice, if not their policy, that helicopters can only be used for work-related business. Do we just keep dancing? We're going to have to at least vote on this recommendation or something, or we'll be here till that helicopter's grounded.

The Chair: Mr. Yakabuski, you've provided me with a segue here. The time for the committee has expired.

There are two things I would leave you with. One is that I will direct research to look further into the details of this particular area. Obviously, when we reconvene to look at this draft, we do have a motion on the floor.

So, thank you very much. The committee is adjourned.
The committee adjourned at 1200.

CONTENTS

Wednesday 1 November 2006

Subcommittee reports.....	A-365
Agency review: Hydro One.....	A-365

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19
52



A-23

A-23

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Standing committee on government agencies

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STANDING COMMITTEE ON
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

Wednesday 15 November 2006

Mercredi 15 novembre 2006

The committee met at 1005 in room 228.

COMMITTEE BUSINESS

The Chair (Mrs. Julia Munro): Good morning, everyone. I have an addition to the agenda that you don't have, and I'm hoping we can deal with this fairly quickly.

As you are aware, we obviously made a room change for today to be in room 228. The justice committee has asked that we switch with them every Wednesday until we rise before Christmas. I made the decision to move us today, but I felt that making anything more than an individual day change was something that the committee should have some input on. So are there any questions? Are people prepared to make this switch? Any comments?

Ms. Monique M. Smith (Nipissing): I think we're fine in this room.

The Chair: Okay.

Mr. John Yakabuski (Renfrew–Nipissing–Pembroke): Excuse me, Chair. I'm sorry, I just got here. What's this?

The Chair: This is a room change. We were asked if we would consider changing from 151 to 228 for the rest of the time until the holiday.

Mr. Yakabuski: The room is no problem; the Chair is.

The Chair: All right. Having dealt with that, I would just remind you that we will be meeting in this room each Wednesday morning until then.

SUBCOMMITTEE REPORTS

The Chair: The next is the report of the subcommittee on committee business dated November 2. I'd ask you to turn your attention to that. Mr. Parsons?

Mr. Ernie Parsons (Prince Edward–Hastings): Yes, I move acceptance.

The Chair: All those in favour? All those opposed? Carried.

The next one is the subcommittee report dated November 9.

Mr. Parsons: I move acceptance.

The Chair: Any questions? All those in favour? Thank you. Passed.

AGENCY REVIEW

The Chair: We have a motion on the floor with regard to Hydro One.

Mr. John Wilkinson (Perth–Middlesex): Madam Chair, given the fact that Mr. Hampton isn't here at the moment, I would move for unanimous consent that we just set aside the Hydro One issue until all three parties can be here for the vote and that we just go to OLG. We're more than happy to go back to that today, but given the fact that we don't have all three here, I would ask for unanimous consent.

Mr. Yakabuski: I would have to say no, from the point of view that if I could get somebody else to come down to this committee, I'd have no problem with that. But I have had no involvement in the OLG hearings. Consequently, I do not feel like I should be the one dealing with the report. If we can give five minutes, I'll see if I can get another member, and I think Ms. Smith may have even spoken to another member. So it may be possible, then, if we could do that, Madam Chair.

Ms. Cheri DiNovo (Parkdale–High Park): We're only talking about 20 minutes, 25 minutes here. Mr. Hampton is otherwise occupied, so we're waiting for him on this since he was the one who dealt with that report and would like to vote on it. Again, it's not a huge deferral; it's just a short deferral. We could perhaps start walking through some of the other bills, but I'm happy if there's another Conservative member who would like to come and speak to it who has been here before.

The Chair: Any further comments?

Ms. Smith: Yesterday, when I tried to canvass this issue, Mr. Hampton indicated he'd be here for the entire time. I talked to Ms. Scott to see if she could be here for the OLG, but when Mr. Hampton indicated he was going to be here, I didn't follow up with Ms. Scott. That's why she's not here right now. We didn't come to an agreement last night, but I'm more than happy to give five, 10 minutes to see if she can come and we can move it along.

Mr. Yakabuski: I can make a call to her office right now.

The Chair: I'm prepared to do a—I don't know. I'd prefer a five-minute recess.

Mr. Yakabuski: Five minutes should be fine.

The Chair: Okay.

The committee recessed from 1010 to 1014.

The Chair: I think we're ready to go back in session. The first order of business is to have unanimous consent to stand down the motion that's on the floor as well as draft 1 of Hydro One. Do we have unanimous consent to do that? Agreed.

ONTARIO LOTTERY AND GAMING CORP.

The Chair: We'll begin, then, by looking at draft 2 of the Ontario Lottery and Gaming Corp.

In looking at this, you will note those changes that reflect our discussions on this, when we were at draft 1, looking now at draft 2. The first change appears on page 15. Perhaps if you want to just reflect—yes, sorry.

Ms. Smith: Thank you, Madam Chair. Before we get to page 15, I question the need for the extensive background material we're providing from pages 1 to 14. I was a proponent of including background material that was presented by the presenters, but 1 to 14 really represents their annual report, and I think that's available pretty much to anyone who wants to see it.

If we could go back to basic principles of what the mandate is for this committee and our mandate for report writing: Are we supposed to be reporting on what they reported, what we heard and our recommendations, or are we supposed to provide an overview of the entire agency? If I could get a sense of that from what our standing orders are, then I could determine whether or not—I think it's a bit excessive. Do we need all of the financial reporting and all of that stuff in this report?

The Chair: I think that if you look at the process over a period of time, it's very much up to the committee what it wishes to include in its reports. That is kind of a broader philosophical position the committee needs to establish, whether it wants to have the kind of background information which would then allow this document to be a stand-alone, as opposed to assuming the materials from other sources. That's really a question for the committee itself to decide.

Ms. Laurie Scott (Haliburton–Victoria–Brock): I'm sorry—could you just repeat what you were saying, in general?

Ms. Smith: Sure. My concern is that, when I started in on the report, it seemed like twice the size it was from when we started, and that's because all of the background information has been included. Pages 1 to 14, I think, are pretty extensive, and I'm just not sure whether it's appropriate for this committee to include that much background information when it's all publicly available on the annual report, etc. I just wondered if it doesn't detract from our work, which was to review the information that was presented and to make recommendations.

I think we do need some background; I just think some of it could be truncated. I'm not sure we need all of the financial reports for the last three years. I'm not sure we need all of those charts. I'm just asking the question.

Ms. Scott: Does it really matter? Do you think it deters, if people are reading the report, that they're going

to get caught up with background on it? I don't see any extensive harm. It's just easier for someone who's looking at the report. They can choose to look at the background. Would you rather it be put towards the back of the document?

If it's all public information anyway, there's no harm, no foul, in attaching it, unless you thought there was something that was distracting.

Ms. Smith: Well, maybe—sorry, Madam Chair.

The Chair: Just a minute. I would recognize Ms. DiNovo.

Ms. DiNovo: I kind of like the transparency of it. I like the fact that it's there. I'm wondering if perhaps, yes, it's the positioning of it; that perhaps this could be an appendix. It makes more sense as an appendix, anyway, than it be an introduction, so maybe we just reverse the order of the way it's presented. Even though it's publicly available, I wonder how many people actually access that publicly available information. I find it helpful; I find it interesting.

Perhaps you're right; it does detract, in its current position, from the work of this committee, so perhaps put it at the back.

1020

The Chair: Yes. In terms of the layout, I think you want to think about the purpose—whether or not it is to be seen as a stand-alone document, in which case, obviously, some historical background and things like that are warranted.

You also have it set out in such a way as allows someone who wants to know more in terms of the direction that the committee took by having the recommendations as a summary at the end. This, again, provides access for the reader. As I say, it is a question of the committee's decision.

What you might want to consider—given that this, as it is right now, is a 34-page document—in terms of future ones, do you want something that is, in fact, closer to 25 pages or something like that? Obviously, we're not going to determine the value of the product by how many pages it has, but if you want to look at where there's opportunity to pare down, that might be appropriate. It's my view that this is probably one of the longer ones, so you might want to consider those ideas when you're looking at this and other reports.

Ms. Smith: I just wondered where the information came from. Some of it's obviously from the annual reports, but there's an analysis of the somewhat controversial relationship with the First Nations, which, I think, adds a bit to a historical perspective, but I'm not sure that's necessarily germane to the actual operations of the OLG. It is one aspect of some of the work that they do, but to have it included in an overview of the operations I'm not sure is particularly relevant. I just wonder: Is this directly from the annual reports, or is this annual reports and then kind of a historical perspective?

The Chair: I'll turn to staff for that.

Mr. Larry Johnston: If I could just speak to that: This document is, in part, a historic document in that this

committee has reviewed appointments to the OLGC on a fairly regular basis over the years. Each time an appointment is reviewed, we prepare a backgrounder on the OLGC. That document is updated and different issues are added in or taken out as the history of the OLGC progresses. So there is annual report material in here, but there's also historical analysis that's been done over the past several years to provide a richer background in terms of the agency and its operations and the issues that are connected with it.

Ms. Smith: I would just suggest that the richer background is really from the perspective of the researcher and not necessarily what this committee has heard or wants necessarily to include. I would suggest, as a compromise, that we might look at putting it at the back, as Ms. Scott suggested, and coming up with a much-abridged summary of the actual operations at the front: What is the OLG? What is its mandate? What is its *raison d'être*? What is it doing? And then our report, what we heard it was doing, including our recommendations throughout, a summary of our recommendations and then a summary and historical perspective on the OLG, just to move it out of the front end. That would be my suggestion.

Ms. DiNovo: I'd be fine with that. Again, it sort of begs the question: What's in, what's out? I think we need to give some direction here in terms of what's included and what's not included if we're going to put this as an appendix at the back.

The Chair: Ms. Scott, did you have something further to add?

Ms. Scott: I was just in agreement to change the order of it and to put it at the back. The document is fine with—you can address it in the table of contents at the front as a backgrounder or whatever labels you would choose to put on and just put them towards the back. If we could come to an agreement on that.

Mr. Johnston: I'd just comment that in preparing these reports, research has followed the practice of previous reports on agencies when they've been reviewed, and those have always begun with an overview of the agency that's taken from the backgrounder prepared by research. So if we're going to do something different, that's just fine, but research needs clearer direction in terms of what the committee would like to have in, what it would like not to have in and the relationship of what goes into the report to the background material that's prepared for the committee prior to its consideration of the agency.

Ms. Smith: Since this is the first time this has been done in over 10 years, it has been a bit of a learning curve for everyone. I think in the next round, and as we move forward with other reports, we'll have a better sense of giving direction earlier on so that we don't get into editing and editing. My recommendation again would be to come up with a briefer summary at the beginning, put this at the end and then put our report in the middle—like a two, three-page max summary of the basic job description of the OLG.

Ms. DiNovo: Just to recap what I'm hearing from Ms. Smith—and I think I'm in agreement with that, and I'm sure Ms. Scott is as well—is that we have a summary at the front, that we have the report in the middle and that we have this appended at the back, but I'm not hearing it being abridged.

Personally, I think the more transparency, the better; the more information, the better. That makes sense to me: a few pages of overview at the front, the report in the middle and this lengthy discussion of the history and the financial statements at the back as an appendix. I just wonder if that's acceptable.

Ms. Smith: Yes, that's what I'm suggesting.

The Chair: As Ms. Smith has referred to the fact that this is the first one in some years, what we need to establish then is as much on a go-forward basis as anything else in order to provide research with the appropriate instruction. Clearly, based on past experience, this reflects that. So I think what we need to be doing then is be a little clearer in terms of the instructions prior to this point, quite frankly.

Anyone else, further conversation?

Ms. Smith: Sorry, just on this: As we move this to the back, if that's what we agree, just for clarity, on the board of directors, on page 14, one of them has passed away, so we should probably remove their name—Kristina Liljefors of Ottawa. So if we could remove that name, please.

The Chair: I'd like to draw your attention to page 15—if there are any changes there that you would wish to put forward or if this reflects the conversation.

Ms. Smith: Are you just on page 15?

The Chair: Yes.

Ms. Smith: Sorry. I'm on 16.

The Chair: All right. Then the next change would be on page 16. Any comments or changes there? Notice that it's a deletion. Okay.

Turning to page 17 and the recommendation that, "The OLGC explore ways to include the French translation of its legal name in branding exercises of its new public corporate identity." I think that reflects the conversation of the time. Let's look at the rest of page 17 then. Any comments there? Okay.

Turning to page 18: We'll just have an explanation for page 18.

Mr. Johnston: The material that has been added on pages 18 and 19 is material that was originally in the background portion of the document. It was moved forward to provide context for recommendation number 4 and subsequent.

Mr. Joseph N. Tascona (Barrie-Simcoe-Bradford): Just one comment: Now that the government has Bill 152, which is probably going to be moving to third reading shortly, which encompasses Bill 60, it would seem to me that the government is taking steps to deal with Internet gaming but not necessarily that bill. Mr. Leal may want to talk about that, if he wishes.

1030

Mr. Jeff Leal (Peterborough): Indeed, that's correct. The main elements of my private member's bill, Bill 60, are now incorporated into Bill 152, the omnibus consumer protection bill brought forward by Mr. Phillips. Certainly from my perspective, the inquiries I've had on this issue are substantial. Just for the record, the government of Great Britain has now organized a seven-nation summit on this particular issue. Whether this needs to stand in this report, now that it's in Bill 152—I'll leave it to the experts at the front to provide some advice on whether it should be withdrawn at this time.

Mr. Tascona: I think you could change it. You could do it two ways. One is that you could say the government—

Mr. Leal: That's redundant right now.

Mr. Tascona: —is taking steps with Bill 152 to deal with Internet gaming, or you give some credit to Jeff, that the government is taking steps to incorporate the principles of Bill 60 in Bill 152. I don't mind. I think it's incorrect to say that Bill 60 is not going to become law.

The Chair: Did you want to add something at this point, Mr. Leal?

Mr. Leal: I think Mr. Tascona has provided a good overview of how we may incorporate his thoughts into recommendation 13.

Mr. Johnston: Am I understanding correctly then that the recommendation would be removed and a statement added to the end of the previous paragraph—

Mr. Leal: I think that's fair.

Mr. Johnston: —that the committee acknowledges that government Bill 152 incorporates the provisions of Mr. Leal's—

Mr. Leal: Essentially that it incorporates the provisions of Bill 60.

Mr. Tascona: Not in its entirety.

Mr. Leal: No, it's slightly different, but I would say that the major provisions of Bill 60 have been incorporated in Bill 152.

Mr. Tascona: That's fair.

Ms. DiNovo: I think we still need the preamble in there, though. I would hate to see that go, "In November 2004," blah, blah, blah, down to "Provincial problem gaming strategy." I think the first paragraphs should stay in, because they set the stage, and then work needs to be done—absolutely—on the provincial response. But I'd like to see some preamble there. It makes sense, as Jeff said, to set the stage for what follows.

The Chair: Any further comments? Let's move on then to page 20.

Ms. Smith: We've added this portion at the top about the Sadinsky report. I just wonder why we're highlighting only one of the recommendations when we do note that they made 72. I don't understand why we've highlighted just that "Sadinsky recommended making this strategy a responsibility of the Alcohol and Gaming Commission...." There were 72 recommendations, so why are we highlighting that one?

The Chair: We're back on page 19. Do you wish to respond to that? Or perhaps other members?

Ms. Smith: My recommendation would be that if we're not going to go into an analysis of his report in detail, we can say that it "contained 72 recommendations, largely concerned with the province's problem-gambling/responsible gaming strategy" and leave it at that—that's what it's about—unless we want to go into an analysis of his report.

Ms. DiNovo: I'm fine with that. I was just concerned about the preamble before that, the two paragraphs following "Provincial problem gaming strategy," so I do agree that that needs to be reworked.

The Chair: Any further comments?

Mr. Tascona: When we do get to it, on page 33, "Summary of recommendations," recommendation number 3 that we were just talking about with Bill 60 is going to have to be addressed. This is a housekeeping matter when we do get to it.

The Chair: All right. Thank you.

Let's look at page 20, the additional sentence there.

Ms. Smith: Madam Chair, were we okay, then, to remove the last part of that paragraph, from the word "which"? Is everybody okay?

The Chair: Yes. It appears so.

Page 20?

Okay, moving on to page 21: relatively minor changes there.

Seeing no comments, let's go to page 22: three recommendations there. Any comments on page 22?

Okay. Let's go to page 23, and again, we're looking at a recommendation that includes "study the results of the current pilot project on counselling services." All right.

Page 24: again, very minor changes there.

So we can look at page 25, again changing the recommendation: "The OLG and its partners continue with the OPGRC to work to eliminate problem gambling and explore options for adopting such a policy." Any problems?

Let's move on then to page 26. Again, a very minor adjustment there at the top, and a couple of other suggestions to text on the rest of page 26. All right.

Let's move to page 27. This one refers to the payout rates. Any comments or suggestions with regard to page 27? Okay.

We'll turn to page 28.

Ms. Smith: At the top of page 28—actually, the sentence starts at the bottom of page 27: "However, in the view of its industry partners ... the OLG is a world leader in the study, research and treatment of problem gambling, with nothing to learn from the experience of any other jurisdiction." I think that's a bit over the top. I don't remember anyone before this committee saying they had nothing to learn from any other jurisdiction, so I just wonder where that comes from. I'm sorry that we didn't catch that in the last round.

The Chair: I'm sorry, I haven't found it yet.

Ms. Smith: It's the end of the first paragraph at the top of page 28. Actually, I think I'm working from a

differently structured draft. I have draft 2. It's just above the box for 13, what I'm looking at, so wherever that appears on your pages.

The Chair: I'm working from a different draft than everybody else.

Ms. Smith: Sorry, just above the box for 15.

Mr. Johnston: Page 28?

Ms. Smith: Page 28.

Interjection.

The Chair: Okay. I have a different draft 2 than you do. That was my problem. I couldn't find the sentence.

Ms. Smith: I'm just above box 15.

1040

The Chair: Apparently, there are two draft 2s floating around. Okay, I'm with you.

Comments with regard to the suggestion that it be removed?

Ms. DiNovo: I would agree: just removing that last phrase, "with nothing to learn from the experience of any other jurisdiction." It's amazing we didn't catch that. So, absolutely.

Ms. Smith: I just have a question. I think everyone on the committee recognizes that I had a real problem with some of the evidence from, is it Dr. Williams, Larry? The guy on the TV.

Mr. Johnston: Yes.

Ms. Smith: And we still report what he says. We do say that some of the industry folks responded with skepticism about his findings, but I wonder, is there something that precludes us from saying that certain committee members questioned his findings? Or is that inappropriate? I just wonder, because I strongly—you weren't here for this, Madam Chair—took exception to some of the things he had to say and questioned some of his research. And I did do it verbally when he was here—it's in the transcript—but it's not reflected in the report, and I just wonder if that's appropriate or not.

Interjection.

Ms. Smith: At what page, are you asking? It's kind of throughout. It's all the Dr. Williams stuff. That's why I waited until we got to the end of the Dr. Williams stuff to bring it up. It starts on page 18 really with the—no, sorry.

The Clerk of the Committee (Ms. Tonia Grannum): Page 19?

Ms. Smith: Page 19: "Dr. Williams, a researcher at the school of health sciences at the University of Lethbridge...."

Ms. DiNovo: I'm still not seeing where we are.

Interjections.

The Chair: I'm afraid it's confusing, because we have two draft 2s.

Ms. Smith: We're at bullet points that start with, "Reconsider OLG's adoption of the Vegas model...."

The Chair: I think that when we had our conversation about this in draft 1, there was the sort of disclaimer notion here where you've talked about how—in the copy I have, it's at the bottom of page 21—"Committee members asked Dr. Williams for evidence that there is a significant proportion of problem gamblers among front-

line casino staff." You've got there certainly some questioning of the nature of his research and things like that. I guess the point you're raising is whether that's strong enough, given the kind of skepticism that people have.

Ms. DiNovo: I wasn't here for this testimony either, but I wonder—we have already gone through the recommendations. The recommendations seem to me to be valid ones. Where they originated, who knows? I wasn't here and didn't hear it and don't have access to that research, and neither does anybody reading this document. But I'd certainly be okay with removing where they came from, if we needed to do that, and just put in voluntary recommendations. But then that again begs the question: Where did they come from? Who did make them? I'd like to see the recommendations there, and I wonder if there's some way that we can work that out.

Ms. Smith: I don't have any problem leaving the recommendations in. What I wanted to do was put in an editorial comment that certain committee members were unconvinced by his evidence, something like that, just to put on the record that at least some of us weren't buying it. I wouldn't ever say that the committee did not accept it, but just some of the members. I would like to put that on the record, if it's possible. I do appreciate that we've already made the changes to at least include that it was based on a master's thesis by one of his students who was interviewing their fellow casino workers. But again, Madam Chair, I leave it to you on the propriety of that.

The Chair: I think that, certainly within the scope of this committee, it is possible for that kind of concern to be included. On the bottom of page 23, where it says, "OLGC officials and the CGA expressed skepticism about the results of the Williams study," I wonder if that's an appropriate point at which to make the kind of comment you are suggesting.

Ms. DiNovo: Madam Chair, I'm just thinking that perhaps just even a line: "The committee has some questions about the validity of the research conducted, but stands by the recommendations."

The Chair: It would seem to me that the suggestion of that skepticism would then be consistent if it was "shared by members of the committee," or "some members" or something like that, if the committee was comfortable with that.

Ms. Smith: I'm comfortable with that on my page 23, which is the paragraph that starts with "Both OLG." I would take out "Both" and put, "OLG officials, the CGA and certain members of the committee expressed skepticism about the results...."

The Chair: Right. Perfect.

Mr. Johnston: Where are you?

The Chair: The bottom of page 23.

Ms. Smith: And without being too picky, if I could say, "of the Williams study and analysis," because I had more of a problem with his analysis.

The Chair: All right?

Ms. Smith: "Certain members of the committee."

The Chair: Or “some.” Obviously, it depends on the committee, if you want to say “and committee members” or “some.” So we’d say “some committee members”?

Ms. Smith: I’m fine with either.

The Chair: Okay, that’s fine.

Mr. Johnston: If I could just clarify in terms of the two versions of draft 2. It’s the same version. One has been printed with the balloons, the comments, in the side margins. That’s what has caused the repagination. The content of the two versions is identical. The one that was supplied originally with the redlining doesn’t have the comments in the margin.

Mr. Yakabuski: It’s out one page.

Mr. Johnston: That’s because of the space that’s taken up by those comments.

The Chair: Okay. Now, I think we’re at page 28.

The Clerk of the Committee: Or 29.

The Chair: Or 29; whichever version you have. I think we’re ready to look at page 29. The only changes there would be the number of the recommendation.

Ms. Smith, I think you had raised a point, though, on page 28, had you?

Ms. Smith: Yes. We dealt with that. We’re going to remove “with nothing to learn from the experience of any other jurisdiction” from just before box 15.

Mr. Johnston: You had asked where that came from. I was just going to supply the reference for that. Mr. Bisson asked, “I’m just wondering: Is somebody doing something in another jurisdiction that we should be looking at, specific initiative programs etc.?”

Mr. Rutsey from the gambling association said, “No. The short answer is no. I think the programs that Ontario is currently undertaking and has on the drawing board are kind of leading-edge in terms of identifying and assisting people with problems.” So that’s the basis from which that was taken.

Ms. Smith: I still want to see that last part removed. I mean, they didn’t say they didn’t have anything to learn.

The Chair: Okay. Can we move on then to the last few pages? I think there hasn’t been any change made from the earlier draft, so at the end we have the summary of recommendations.

Ms. Smith: Did we always have the revenue projections section? Was that there before? I just don’t remember. Probably after we got out of recommendations, I stopped reading. Was the revenue projections section always there?

1050

The Chair: Yes, I think it was.

Ms. Smith: What I would ask, then, is if other issues should be included as an appendix as opposed to part of our report. I don’t remember hearing about Pro-Line products at Casino Windsor or that kind of stuff, so I just wonder if we shouldn’t put this other information as a second appendix and move up our summary of recommendations to the end of our report after recommendation 15.

Mr. Johnston: On the basis of previous practice, any issues that arose during a review for which there were no

recommendations did not appear to be included in the report. In this case, the committee had only identified two or three issues in each case for OLGC and LCBO to attach recommendations to, so the committee was asked whether or not it wanted to include the discussion of the other issues in the report. The decision at that point was yes. So I guess the question is, do you still want to include these issues if you feel they are superfluous, or change the order?

The Chair: Any comments with regard to laying this out?

Ms. Smith: I’ve made my recommendation, so I’d just be interested to hear the others.

Ms. DiNovo: I’m always for including more information rather than less, more transparency rather than less, so why not?

Ms. Smith: So you want it in the body of the report, not in appendices?

Ms. DiNovo: Appendices are fine as long as it’s there somewhere.

The Chair: All right. I think that we’re obviously going to have to look at this once again. So we will conclude for the moment our review and look for draft 3 to come back and deal with some of the outstanding issues.

Given the time and the attendance that we have right now, I’m suggesting that we go back to Hydro One, if everyone is in agreement with that. All right.

HYDRO ONE

The Chair: We’re turning our attention to the agency review on Hydro One. I would just remind you that we have a motion on the floor that Mr. Tascona—and I’ll just read it to remind you: “I move that recommendation 8 be amended to read, ‘Hydro One develop a corporate policy on helicopter use, which shall include maintaining a log listing the names of all individuals using Hydro One helicopters and the purpose of the trip.’”

We are at this point, then, considering that motion. I would ask for any comments before we vote on that motion.

Mr. Leal: I suspect that’s a similar policy to the one that the federal government uses for the Challenger jet. They have to list the names of all the people who are on board, so that seems reasonable.

The Chair: Ms. Hull.

Ms. Carrie Hull: The committee asked me to verify with Hydro One the status of its practice or policy, so I don’t know if the committee would like to hear the answers.

Mr. Yakabuski: I think we might.

Ms. Hull: I asked Hydro very specifically whether it has a corporate policy or a set of practices related to helicopter usage, and the answer was, “Hydro One does not have a specific corporate policy ... we have a long-standing set of practices and comply with all Transport Canada aeronautics regulations.”

They have six helicopters. I asked for details about the exact information that is included in the log for a trip,

and Hydro One replied, consistent with Transport Canada regulations, "Each flight is recorded on a Hydro One flight report which states the helicopter registration, date, pilot, destination, number of passengers and takeoff and landing times."

The Chair: Thank you. Mr. Wilkinson.

Mr. Wilkinson: Given that response, we'll be voting in favour of Mr. Tascona's recommendation.

Mr. Howard Hampton (Kenora-Rainy River): Finally.

Mr. Wilkinson: I just wanted to hear it, Howard. But I'm glad we have it on the record now.

Mr. Yakabuski: Where are we here with Mr. Tascona's recommendation?

Mr. Wilkinson: It's the same as Howard's, but it just says "corporate policy," which was ours.

Mr. Yakabuski: So we're basically—

Mr. Wilkinson: We're all in agreement.

The Chair: If there are no further comments or questions, I will call for the vote. All those in favour? Carried unanimously.

We're looking at the Hydro document; we are at page 6. We have made, obviously, a change through the motion just carried on recommendation 8. So we're looking at the service delivery issues at the bottom of page 6. Perhaps we could just have a little introductory overview to that section.

Mr. Johnston: One of the key stakeholders who appeared was the Electricity Distributors Association, which represents Ontario's 85 local distribution companies. This is an important group of Hydro One customers. On the other hand, Hydro One is also a member of the EDA and holds one seat on its board of directors. The EDA brought a number of recommendations to the committee concerning Hydro's ability to carry out its transmission responsibilities.

The first one for the committee to consider is recommendation 9: "Hydro One's need to make significant capital investments to expand its system capabilities to address load growth, generation connection requirements, and transmission congestion not be deferred, but recognized and built into future plans."

The Chair: Let's take any comments, if you'll have a look at recommendation 9.

Mr. Wilkinson: I would note for the record that it is a requirement of the Ontario Energy Board, that it falls under their purview, though the intention is fine, as far as I'm concerned. But I think the way it's worded is a bit difficult in a recommendation, so my problem is with how it's worded. I just think a regular person reading that will get a bit confused over "Hydro One's need to make," and then, at the end of it, "Not be deferred." So I just think the English should be improved on that so it's clear. That would be my only suggestion.

Mr. Hampton: I think what the distributors' association is trying to get at—and I'm not sure the recommendation gets at this—is that there were a number of Hydro One transmission projects identified in 2004-05 that went to the Ontario Energy Board that received

capital approval or rate approval. Yet here we are now, almost at the end of 2006, and many of these are delayed and deferred. That's essentially what's going on in terms of Bruce. I think what the recommendation needs to get at is that there has to be, to hold Hydro One accountable, some sort of public record of what transmission projects need to be accomplished.

I find it scandalous, as I said yesterday, that the hydro consumers of the province could be on the hook for about \$700 million if Hydro One's duct-tape fix-up of the transmission line doesn't work. The Ontario Power Authority's report, which is going to be released today but which we got a draft of yesterday, says that there is a big risk that it won't work. That's at least \$700 million of the public's money that's being gambled.

1100

I think what this recommendation is getting at is, that's not acceptable. This agency is critical to the economic future of the province. You have generation projects being brought online but no assured transmission facilities to get the electricity to where it needs to be. The local utilities—electricity distributors, in this case—are sort of left in the lurch as well. I think the recommendation needs to be toughened up, that Hydro One—just as the Ontario Power Authority is setting out what they think needs to happen in terms of generation and distribution, because the government is the sole shareholder, Hydro One has to put out some projections of what needs to be done and what in fact is going to be done, rather than us hearing, as we did yesterday, a year later—some would say, perhaps a year too late—that the transmission may not be there for the Bruce. It may cost the ratepayers of the province between \$700 and \$800 million to cover for that.

We have to make a greater demand on Hydro One. I think that's what this recommendation needs to speak to.

Mr. Yakabuski: I concur with Mr. Hampton. When we have a situation, it doesn't matter what agency you want to pass it off to, whether it's the OEB, the OPA, Hydro One or whatever; ultimately, it's the government's responsibility. When you have a situation where you sign a huge contract for power procurement with the Bruce—and we certainly agree that that was something that was necessary and we support the government on that. However, when you don't take the necessary steps to ensure that it can in fact be made to work—you can't sign an agreement without ensuring that you're going to be able to move that power. Hydro One is a huge component of ensuring that those things will happen.

I think what the government has done is insulate itself with various organizations so it can take credit when it wants to take credit but not take the blame when somebody has to be the scapegoat. If we get into a situation in 2009 to 2011 where we're not able to move the power produced at the Bruce, we are in for some significant cost penalties, and I think it's paramount that those transmission corridors be ready and running.

I know the minister has assured us that we will be able to move that power through some sort of temporary

solution, but then again, this was the same minister who assured us we'd have coal power shut down in 2007. I'm not really that comfortable with his competence in making sure that what he says is actually going to come true.

There has to be a strong recommendation made to Hydro One to ensure those facilities are there.

The Chair: If I could just suggest—perhaps, given that this is all in one sentence, you might want to consider breaking it up into at least two sentences to deal with the two parts that, I think, are inherent here. I just offer that recommendation to you. That might provide more clarity and strength to what seems to be agreed upon.

Mr. Wilkinson: I think that if we capture what the EDA testified at the bottom of page 6 and we added into there those parts which tend to be confusing because they're being restated in the recommendation so that the recommendation is pure and clear, this committee is recognizing that, obviously, if the transmission challenges are not addressed, that causes a large problem, and that it's Hydro One's responsibility to actually get those things fixed. I think the committee rightly feels that this is something that needs to be a priority.

For example, if we added at the bottom of page 6, for clarity, that we're talking about significant capital investments to expand its system capabilities to address load growth, generation connection requirements, and transmission congestion, which is in the recommendation, and put it at the bottom of page 6—because that's really the testimony of EDA, which is what we're quoting—and then make the recommendation that these things cannot be deferred, that they need to be recognized and built into future plans, which I think is what the recommendation was.

I think that would add some clarity. The English in the recommendation would be something that people could understand and we'd allow the EDA testimony to be the context. I don't know if that's acceptable.

The Chair: Okay?

Mr. Yakabuski: Yes, I'd be okay with that.

Interjection.

The Chair: We'll look at a draft of this recommendation then that would concentrate on the last part of the sentence. Did you have something further to add to that?

Interjection: No.

The Chair: Okay. We'll move on then and look at the next issue: timely project approvals.

Mr. Johnston: I think this is probably related to the previous matter. The EDA spoke about the importance of obtaining timely regulatory approvals. I think part of the issue is the number of players in the electricity regulatory environment. Recommendation 10 says, "Provide the electricity industry with mechanisms that ensure timely project approvals to reflect the best interest of the province and ratepayers."

Mr. Wilkinson: Because the impediments that I think are being identified are not the responsibility of Hydro One because we're dealing with a lot of other approvals,

it strikes me that it would be better if we asked Hydro One to report back to this committee as to what those impediments are, so that then this place can do what's required to make sure that if there are those bottlenecks, we're dealing with them. I'd be more comfortable if we were actually asking Hydro One to report back on those.

The EDA came in and said, "You've got these bottlenecks. We've got these problems with approvals. This is undermining the ability of Hydro One to deliver what the people of Ontario expect of them." I think they've raised more than a valid point. Why don't we get Hydro One to report back to us about what those are? Because it goes beyond the purview of Hydro One to fix EA approvals, municipal bylaws, all of those other areas, so I just find that the recommendation isn't—I understand the intent. I don't know whether this report can deal with that.

Mr. Hampton: Correct me if I'm wrong, but I thought that when the EDA was here, they identified bureaucratic delay as one of the issues. I think you now have seven agencies involved in elements of hydro-electricity supply: OPG, Hydro One, the IESO, the Ontario Power Authority, the Ontario Energy Board, the Ontario Electricity Safety Authority and the Ontario Electricity Financing Authority.

Am I wrong? I thought what I heard them say that a big part of the problem is that there are too many players and the scope of some of the players overlaps, so you'll have three different agencies dealing with transmission issues. Hydro One finds it difficult to make a decision unless and until the Ontario Power Authority, the Ontario Energy Board and someone else possibly also has their say. Maybe staff can correct me, but I thought what I heard from their presentation was that there are too many competing entities, which makes arriving at a decision very difficult.

Mr. Johnston: Perhaps I glossed over the previous paragraph a little quickly because it does note that in fact it wasn't just the EDA but also Hydro One and some of the other stakeholders who identified the role of the OPA and the IESO as adding to the complication. So I think that confirms your point.

1110

Mr. Yakabuski: I share Mr. Hampton's recollection, but I also agree with Mr. Wilkinson that Hydro One is an applicant in these processes. They're not the one that determines the process and/or determines its outcome. In my opinion, the recommendation just doesn't fit with the mandate of Hydro One, so I'm not sure where we should be going with that. Obviously we should be discussing that. We're recognizing the problem with regard to timely approvals, which we've all spoken about and, in fairness, the government has raised that issue themselves, with how we're going to address some of the concerns when it comes to adequate supplies of electricity and moving them to where they need to be. I think we're all probably in a similar position on this recommendation in that we shouldn't be recommending something to Hydro One that they're in no position to follow through on anyway.

Mr. Wilkinson: Further, I think we're all in agreement that it isn't for this committee to tell Hydro One to fix something that they can't fix, but would we agree that it's reasonable, though—because this has been brought up by Hydro One but particularly by the EDA in testimony before this committee, and we all agree that it's an issue that needs to be addressed. Is it appropriate then for this committee to ask Hydro One to report back to us as to what they consider constraints—

Mr. Yakabuski: Things that they could recommend to us to streamline the system?

Mr. Wilkinson: Yes, that's right.

Mr. Yakabuski: Recommendations to—yes, that would be reasonable.

Mr. Wilkinson: In this province, we used to have it the old way where everything was just controlled by the one entity. I remember from my good friend Sean Conway that at the time there was all-party agreement of the need to have that broken up, but I think the testimony we're having here is that you can end up in a situation where there are so many cooks that things are being delayed. There's obviously a need to move forward.

I would maybe defer to my friend the leader of the third party who has much more experience than I, but is it appropriate for this committee to ask Hydro One to report back on what they consider to be the challenges? Perhaps Ms. Munro would have some historical context as well since she is a senior member of the Legislature.

The Chair: Mr. Hampton, do you wish to respond at this point on that?

Mr. Hampton: Since the issue was raised not just by Hydro One but by other groups and organizations that came before the committee, I think we should put the onus on Hydro One to spell out for the committee what measures they believe need to be undertaken in order to ensure not only timely approval but timely undertaking of transmission projects.

Mr. Wilkinson: Could we have agreement perhaps that this recommendation, given that, could be redrafted for the next draft and we could visit it then? We could try to wordsmith this now and—

Mr. Yakabuski: I guess I'm asking the committee clerk perhaps: Is this a function of our committee? Can we go to Hydro One and—

The Clerk of the Committee: Yes.

Mr. Yakabuski: Okay, perfect.

Mr. Wilkinson: Because we can always ask them to report back.

Mr. Yakabuski: Then what Mr. Wilkinson is asking for, I think, is quite reasonable.

The Chair: Okay. We'll move on, then?

Mr. Wilkinson: Sure. So you have enough to try to come up with a draft on this?

Mr. Johnston: We'll get the exact wording from Hansard.

Mr. Wilkinson: Super. Thanks, Larry.

Mr. Yakabuski: Then we'll look at it.

The Chair: Yes. Let's move on to the next—11 and 12, the background for those.

Mr. Johnston: The next two recommendations deal with the issue of the cost of capital, which is a concern for the EDA and its members, including Hydro One, and concerns proposals by the Ontario Energy Board for a process of determining the overall cost of capital for local distribution companies. The association made two suggestions:

"11. That a more flexible approach be taken to the determination of the capital structure and determination of the rate of equity for return for utilities, recognizing that all utilities need and are entitled to a reasonable rate of return.

"12. That a regulatory environment be provided that allows access to financing at reasonable rates for all utilities."

Mr. Wilkinson: Madam Chair, first of all it must be my business background, but it wouldn't be the rate of equity for return; it would be the rate of return on equity, just as a point of clarity.

Beyond trying to clarify that, it is the purview of the OEB, which is an arm's-length agency, to lay out the rate-of-return rules. I can't see how it's within the scope of this committee doing a review on Hydro One, which is an LDC, to be voting in favour of something which is not the responsibility of Hydro One. There is the Ontario Energy Board. They clearly have jurisdiction in this issue. They have the responsibility of balancing the need of power companies versus the ratepayer. So I can understand why they would want to come in here and make their case about why they think they should make a better rate of return, but I don't think it's the purview of this committee to get into the weeds on this issue. I know that we're not in favour of it, both 11 and 12, because we don't just don't think it's appropriate in this report.

Mr. Leal: Just a quick comment on 12 with regard to "a regulatory environment be provided that allows access to financing at reasonable rates for all utilities": If any LDCs in the province of Ontario are owned by a respective municipality, when you look at those financial arrangements, often the LDCs can take advantage of low interest rates that municipalities can acquire to borrow money at a substantially lower rate if you're issuing debentures for cattle projects or other financing mechanisms that they take advantage of to provide lower interest rates in terms of their borrowing. I know that Peterborough is a prime example because we happen to own Peterborough Utilities Services.

Mr. Yakabuski: One of the concerns the LDCs have, and this may be part and parcel of what they're talking about—I also agree with Mr. Wilkinson that Hydro One is an LDC. They're part of the group, and it is the responsibility of the OEB to set the rates of return and the regulations surrounding that. One of the things they're concerned about is in the smart meter initiative, that the LDCs are saddled with all of the capital costs in the purchase and installation of these meters, mandated by the government. That's one of the big concerns they have. I think that's part and parcel of their capital concerns here.

Again, it's not Hydro One's responsibility, but I think it is indicative of the concern that LDCs have with regard to the time and the rollout of the smart meter initiative and the financial burden that it's placing on LDCs.

Mr. Johnston: It just seems to me that implicit in these recommendations is that they're for the OEB, so I guess part of the question is, can this committee make recommendations to the OEB?

Mr. Yakabuski: Can we?

Mr. Wilkinson: It's our position that that is not the purview of this committee. What we're doing here in government agencies is that we've had a review of Hydro One, and they've come in. I agree that all stakeholders should be able to come in here and have their issues and get them on the table, and they've been recorded in Hansard. I don't mind, obviously, research drafting a report that reflects the testimony given, but at the end of the day we are charged with writing a report which contains recommendations.

Mr. Yakabuski: Hydro One.

Mr. Wilkinson: Those recommendations have to deal with Hydro One. As we start getting into other issues, if we want to call another agency here, that's another issue.

Mr. Yakabuski: Are we allowed to call—is the OEB an agency that can be called for government agencies?

Interjection.

Mr. Yakabuski: So that's something that would have to be addressed at another time. I share that position with the government side.

Mr. Wilkinson: I have no problem with the testimony being summarized in the report. When they came here, it was—

Mr. Yakabuski: Exactly. But we can't recommend to Hydro One what should be recommended to somebody else.

Mr. Wilkinson: Again, when it comes to rates, it's not just the people selling; it's also the interest of the people buying. That's why we have mechanisms other than Hydro One or the LDCs to set that.

The Chair: Now, in order to move this along, are we agreed that you want to remove the two recommendations, or do you want to find a way to pin them on to Hydro One?

1120

Mr. Hampton: I think that if we just take out the words "possible recommendations" and take out numbers 11 and 12, so that it reads:

"The association made two suggestions:

"That a more flexible approach be taken to the determination of the capital....

"That a regulatory environment be provided that allows access...."

That summarizes what they said, but they're not recommendations.

Mr. Wilkinson: Not to put too fine a point on it—I agree with that. When we talk about rates, we're talking about rates going up. So I think we have to be very clear that that is not the purview of this committee, unless we want to discuss whether or not we think rates should go

up on consumers. I think if we canvassed the table here, we probably would decide that we shouldn't get into that discussion today while we're dealing with this report. But I have no problem making sure, as the leader of the third party said, that if we're just recording what the advice was that we received from stakeholders, I have no problem with that.

Interjection.

Mr. Wilkinson: Yes. But again, as long as we're being clear who's recommending it, that it's not in committee.

Mr. Yakabuski: I'm good with that.

The Chair: We'll move on, then. We'll just look at the text that leads up to the next recommendation.

Mr. Johnston: The committee was told that the Ontario Energy Board has issued a requirement that long-term load transfers be wound up by utilities' either building facilities out to the customers involved or selling those customers to their neighbouring utility. Many of these long-term load transfers involve Hydro One, and the ministerial directive that prohibits Hydro One from buying or selling assets makes meeting the OEB requirement problematic for many of the LDCs.

The possible recommendation was that the ministry clarify its directive that currently prevents Hydro One from buying or selling assets in such a way that the long-term load transfers in which Hydro One is a partner may be resolved consistent with the requirement of the OEB.

Mr. Wilkinson: I believe that the policy decision by government was recently clarified. I think it's a bit after the fact, but I have no problem with it being reflected in the testimony that was received. In my opinion, the ministry has clarified that, and we'd be more than happy to provide for the committee something from the ministry if that would help clarify it.

Mr. Yakabuski: But the change had something to do with the taxation of those transfers too, didn't it?

Mr. Wilkinson: Yes. My understanding is that, talking to my own LDCs in my own riding, there needed to be clarity on that to allow a lot of these decisions to go forward. My understanding is—

Mr. Yakabuski: Again, it's not Hydro One that can change its position whether it can sell or purchase assets.

Mr. Wilkinson: That's right. So for us it's kind of a moot point. If there are people around the table who would like the ministry to provide more clarity, because that has happened since the testimony, I'd be more than happy.

Mr. Yakabuski: Again, it's the LDCs saying what they think may be a problem with the operation of Hydro One, but Hydro One has no power to change the rules and regulations surrounding that activity. The recommendation really would have to go elsewhere. We're not in a position to recommend to another agency from the point of view—

The Chair: Not in this context. If I could just suggest to you that you might want to consider approaching this, since there has been a change since the committee hearing, in a manner similar to that which we have agreed on,

Mr. Leal, in the legislation. So if there is a sentence to be added as an update on this issue, and then take out the recommendation, but simply make reference that, because of the fact that this is part of the committee hearing, that would be one way of dealing with the issue.

Mr. Hampton: I'd be interested in some more information. Does the clarification by the ministry in fact respond directly to the recommendation? That's the first issue, and if staff can provide us with some information on that, that would be helpful.

Again, I would be okay with something that simply says that it was felt strongly that the ministry needs to clarify its directive, and if we then find out that the directive has been clarified, you can add another sentence: "There has been some response to this."

Mr. Wilkinson: And for committee members, I will undertake to ask the ministry people to actually work with research on the specific questions raised around the issue of clarity, since there have been some changes made since we had this original testimony, and that could be reported back the next time we deal with this, if that's acceptable. And then we can deal with the issue that has been raised by my friend from Kenora—Rainy River.

The Chair: If there's agreement there, then what I would suggest is that we hold off on any decision on this, because it would seem, if there's clarification, there's unlikely to be any recommendation. So we'll await clarification on this particular initiative, if no one has any objection to that.

Let's look at the next part, on conservation initiatives and the recommendation on page 9.

Mr. Johnston: In its opening statements, Hydro One officials emphasized their commitment to playing their part in conservation, which has become a central component of the government's energy policy. They described a variety of initiatives they've taken over the past few years and, asked to elaborate on conservation initiatives, provided a variety of figures to the committee on what they've achieved to date.

At the same time, the committee heard from the Environmental Commissioner, who observed that Hydro One's conservation initiatives seemed to consist of "well-intentioned, positive plans ... [but] seemed to be a little short on mechanisms, a metric to measure success."

So the possible recommendation is, "That Hydro One assess its conservation initiatives to determine their cost-effectiveness and adopt more critical program evaluation techniques."

The Chair: Comments?

Mr. Wilkinson: I think the testimony speaks for itself. I think our only issue would be that it is the OEB that does the assessment, though I have no problem with the fact that Hydro One could report back to this committee on its efforts. I think that's fair. But let's make sure, again, that we're being clear about what Hydro One can do and what others are supposed to do—and we're not reviewing those—and there is a mechanism for that assessment through the Ontario Energy Board. But I have no problem with them saying that they need to report back to us on their conservation measures.

Mr. Hampton: I have no problem with recommendation 14. We should add in, though, another sentence: "That Hydro One report back to the committee." If Hydro One wants to use OEB information, if they want to use their own information, if they want to use both, that's fine. But I think we clearly heard that while money has been allocated for conservation, it's not clear what the conservation outcomes have been with respect to Hydro One.

Mr. Yakabuski: I would further add that as the front-line people involved in conservation, as an LDC, Hydro certainly is in a position to evaluate its programs. Whether they're instituted by someone else or not, they're the ones who deliver the programs, and I think it behooves them to have an ongoing auditing process to determine whether or not these programs actually do deliver bang for the buck. Regardless of who initiates them or designs them, they deliver them. So I think this is a good recommendation, and let's add the sentence that they report back to the committee on that.

1130

Mr. Wilkinson: I think if we get back into the testimony, we do have some concerns, not with the intention but actually the testimony. There's a whole section in there we heard about which really, in my opinion, as a business person, uses fuzzy math to prove the researcher's preconceived bias against conservation. So it strikes me that because of that, there are mistakes in that section. For example, they allocated costs over one year; that should be over the life of the installation, if we're going to look at cost-effectiveness. And again, it's not Hydro One that does this; it's the OEB that assesses these things. So to me, what we should be saying clearly to Hydro One is that we want them to report back on what they're doing for conservation, because that's who we're writing a report on, but not to give credence to some who've come and testified. I think we were dealing with the same issue, which Ms. Smith raised, in the review on OLG. People can come here and put whatever they want on the record, but we have to be careful whether or not we validate what one person or one group says.

I think the issue raised is one of Hydro One and its commitment to conservation. So for me, it would be more that—because when we're making a recommendation that they have to adopt more critical program evaluation techniques, what we're saying backhandedly is that they haven't been critical enough. What I want Hydro One to do is to come back and report about what they're doing. Given the concerns raised, they need to report back to us about what they consider to be cost-effective. I would hazard a guess that they would use a different mathematical methodology than the person who gave testimony. For example—

Mr. Yakabuski: We're agreeing with you. We want them, as one of the largest LDCs in the province and one of the ones who would be responsible for delivering the programs, to the largest extent—they're a very good candidate for being able to give feedback on what components of these programs perhaps should be expanded

and what components of the programs are not working as well as was originally thought. I think Hydro One is in a position to give that kind of information, and I think it's a fair recommendation.

Mr. Wilkinson: I agree. My question would be, and what I'm comfortable with—for example, we said that Hydro One report back on its conservation initiatives in regard to cost-effectiveness and critical program evaluation techniques. They can report back to us on that. We're being very specific: It's conservation, and these are two things that we want them to report back on. Don't give us a report. We have a concern that has been raised by others about the cost-effectiveness of what they're doing and about how self-critical they are of what they're using, but I don't want to presume—

Mr. Yakabuski: That's all we can ask them: to report on the programs they're mandated to deliver, to report on their feelings and their experiences as to the cost-effectiveness, the conservation effectiveness and the critical evaluation of those programs.

Mr. Wilkinson: I think the wording I suggested is clear, that it would be clear to Hydro One what we're asking them to do. That's different than the idea that they're supposed to assess that. That's not their purview.

Mr. Yakabuski: Assess?

Mr. Wilkinson: Instead of saying that Hydro One assess themselves, we want a report back on their conservation initiatives. And when they report back, what we're interested in is cost-effectiveness, which means that they'll have to show us their methodology, how they're using their math. The person who testified might have raised a good point, but I didn't agree with the mathematical model that was being used, and I don't think we can tell them to be more critical. Show us what your program evaluation technique is. Let's not presume the guy's testimony, but let's get Hydro One to report back on those two issues that were raised.

Mr. Yakabuski: Well, we're not presuming. And being more critical is not necessarily levelling more criticism; it's just maybe examining it in more detail.

But I don't see how what you're asking, your suggestion of changes, is any different from the recommendation that we're making. We're not asking them to evaluate, in their own experience, whether they think the OEB has done a good job or anything, or whether they should be the ones designing the programs, not the conservation authority or whatever through the OPA. We're saying to them, "You've got the programs, you've had the experience of delivering them; give us your feedback as to where you feel that these things are successful and where you feel they can be improved upon."

Mr. Wilkinson: It could be just how we're reading this, but when we say as a committee, "and adopt," that's saying, "We're telling you to do something. We're telling you right now: Adopt more critical program evaluation techniques." Hydro One should report back on their program evaluation technique. I want to see that first.

Mr. Yakabuski: I can live with that.

Mr. Wilkinson: That's my point. Really, we can't tell them to assess. That's not their purview. But they sure can report back to us.

Mr. Yakabuski: Okay. Let's hear the recommendation and see if we like it.

The Chair: Well, I think, if I'm correct, it's that Hydro One report back its conservation initiatives to determine their cost-effectiveness and use—

Mr. Wilkinson: Actually, Chair, what I was suggesting is that Hydro One report back on its conservation initiatives, and then I also said "in regard to" or "specifically," just so that these two points don't get lost in the report, because conservation initiatives are very broad but the two issues—

Mr. Yakabuski: Give us the recommendation.

Mr. Wilkinson: "But in regard to cost-effectiveness, we want to see your program evaluation techniques." I think that's what this committee can ask them to do.

Mr. Yakabuski: I'm probably good with that.

Mr. Hampton: Can I make a proposal? That Hydro One report back on its conservation initiatives and the evaluation and measurement techniques used to determine the cost-effectiveness of its conservation initiatives. In other words, tell us what your conservation initiatives are, then tell us what your evaluation and measurement techniques are that you use to determine the cost-effectiveness of the initiatives. I think that's really what the Environmental Commissioner was getting at in his comments. He said that they seem to have conservation initiatives, they seem to be well-intentioned, they seem to have positive plans, but they seem to be a little short on mechanisms, a metric to measure success. The other information that's included in the report goes in that direction too.

Mr. Yakabuski: We're kind of splitting hairs at this point. But I'm happy with that. Unless you're going to have a real objection, I think that accomplishes it too.

Mr. Wilkinson: Yes, I'm fine with that.

The Chair: I just want to throw out something and ask you: You've picked up on the notion of program evaluation techniques. I'm just wondering whether or not you really want to ask about outcomes.

Mr. Wilkinson: I think that what the Environmental Commissioner was talking about was metrics. In other words, sure, you can have outcomes, but how are you determining the metrics? Because that's what I think research is telling us: You're well-intentioned and you're moving forward, but how are you measuring success? He obviously didn't feel that he got that from Hydro One, which is why he made that comment. I think it's fair for us to ask Hydro One to report back on that to deal with that issue. Obviously, metrics is one and cost-effectiveness is another.

Mr. Yakabuski: Yes. We spend a lot of money on this and sometimes it's difficult to determine whether or not it adds up. Let's hear from one of the biggest people in the business.

The Chair: Okay. I think we've come to an agreement here. We'll look at—

Mr. Wilkinson: Do we have enough for research to redraft that?

The Chair: Redraft that recommendation.

Okay, we can move on to load-shifting. Do you want to talk a bit about load-shifting for us?

Mr. Johnston: This issue was again brought by representatives of major power consumers, who expressed an interest in Hydro One's upcoming submission to the energy board for transmission rates and, in particular, changes to the tariff structure for industrial users. The recommendation is, "That the OEB be directed to develop a tariff structure for Hydro One's transmission rates that provides a clear incentive for industrial users and business consumers to shift usage from peak to off-peak times."

The Chair: Okay. Any comments about either the text or the recommendation?

1140

Mr. Wilkinson: First of all, on the recommendation, we're directing the OEB, which is not our purview.

Mr. Yakabuski: I agree. Even if we think something is a positive thing, we're not here to come up with recommendations for the OEB.

The Chair: Would you then think it appropriate if it was simply there as a comment as opposed to a recommendation? There's no reason why you can't do that.

Mr. Hampton: Simply reword it. Take out the recommendation and put in, "These representatives believe that the OEB should develop a tariff structure for Hydro One's transmission rates that provides a clear incentive for industrial users and business consumers to shift usage from peak to off-peak times." It's on the record, it's clearly part of the report, and—

Mr. Yakabuski: It follows the concerns that people have with respect to the—as you said, the multitude of agencies that seem to be involved in this sometimes makes it a little confusing and difficult.

The Chair: All right. Okay. We agreed that we're going to have that as part of the text then.

If we look at the next recommendation.

Mr. Johnston: The same representatives suggested that a distinction needs to be made between conservation initiatives that take industrial assets and capital stock out of production and therefore are not necessarily conducive to the economic health of the province. The recommendation that accompanies that is, "That the design of conservation initiatives take into account the distinction between electricity usage that is economically productive (i.e., adding value) and that which is non-productive consumption, and target any initiatives towards reducing the latter."

Mr. Hampton: This one could be a recommendation to Hydro One. What this is getting at is that, given the current rate structure, you actually have, in significant parts of the province, industries shutting down, sending workers home. Production is stopped because of the rate structure. I think we could make a recommendation to Hydro One that it examine and report back to this committee on how conservation initiatives could take

into account the distinction between electricity usage that is economically productive—adding value—and that which is non-productive consumption, and how that could be targeted. I think we could ask Hydro One that question: How could this be done? How would you do this? Because I think that's one of the questions that needs to be answered. Coming from northern Ontario, paper mills, pulp mills, mining operations are very disturbed that they have to shut down sometimes for weeks at a time and lose valuable economic production, not because they're using more electricity—in fact, they might be using less—but because of consumption elsewhere in the province. Consumption elsewhere in the province may be for a totally uneconomic undertaking. I think we could ask Hydro One: How would you respond to this?

Mr. Wilkinson: Just to make sure the record reflects everything, I would say that incentives for load-shifting primarily come from the price signal, not particularly from Hydro One charges. But I agree; I'm not opposed to them investigating and reporting back on what they think would be additional incentives.

There are some that already exist. For example, the Hydro One network tariff is charged between seven a.m. and seven p.m. So businesses who do shift their demand outside of this time pay no tariff. To be fair, there already are load-shifting and demand-response programs as well as other conservation methods. Those ones are entirely voluntary: Power users are asked to identify what they can do without and are rewarded for that effort. Given that that already exists, I think it's fair for our report to recognize what already exists. I have no problem with asking Hydro One to report back to us as to other things that could be considered to actually get us to the policy objective, which is conservation.

Mr. Yakabuski: Hydro One's role is a minor one in this issue. Of course, they don't produce the electricity and they don't have anything to do with the price of the electricity, but it is a very valid point that Mr. Hampton raises, where production is actually shut down because it reaches a point where they simply can't afford to operate because the price structure has hit a specific level at a specific time because of demand across the province. I concur that if there's something that Hydro One can add or contribute to the point that they may have some suggestions on how we deal with this issue—because it is an issue for manufacturers in this province, there's no question about it, particularly the electricity-intensive ones such as pulp and paper, forestry, mining, that Mr. Hampton was talking about.

Mr. Wilkinson: I know we're going to get into this next, about soft versus hard grids and distributed energy. It's very difficult for Hydro One, which provides the wires, to be asked, "How should you change the model?" But I think it's from a public policy point of view, when you look at the standard offer contract and distributed energy, where we really have looked to the very positive experience in Europe. It goes to that whole issue, so I think it is in the best interests of Hydro One to report back to us on this topic. I think it's something that they

need to be focusing on as we, as a province collectively, agree that we need to be going to more renewables that are generated locally.

The Chair: Okay. Can we move on, then? We've got some suggestions for clarifying that.

Now we're looking at soft versus hard grids.

Mr. Johnston: This is an issue brought to the committee's attention by the Environmental Commissioner, talking about new technologies and different models. He made the distinction between large-scale, capital-intensive technologies and soft-path systems that pursue conservation, small-scale distributed generation and renewable energy applications.

The recommendation that accompanies this discussion is, "That Hydro One be given incentives (or direction) to develop soft-path ideas and work towards their implementation over the medium and long term."

The Chair: Comments?

Mr. Wilkinson: Following up on that—again, to be fair, this isn't my file, but I can share with my colleagues about the distributed energy type projects that are happening in my own riding, and I would invite any member of the Legislature to come and see what is going on, particularly around the issue of anaerobic digestion and the creation of methane and renewable fuels.

I can say from my own experience, dealing with my own constituents, that the Environmental Commissioner was right when he testified that the entire system is built on the 20th-century model and we really need to be forcing everyone to get into the 21st century, again following the lead of our friends in Europe who have done a lot of work on this, particularly in Denmark, which I think is the leader in the world in distributed energy. But we do have a structure that envisions a different way of transmitting electricity. I know from my own constituents that it has been a challenge for them as they deal with Hydro One, because most of these projects are, of course, in rural Ontario, where there is only one LDC and that is Hydro One.

I was very fortunate to have Minister Duncan come out and visit the riding and meet with the constituents, who are doing multi-million-dollar projects to not only make sure that their farm operations are sustainable but actually helping us, as Ontarians, provide new sources of renewable energy.

My concern, though, is the words "be given incentives ... to." It says, "That Hydro One"—instead of "be given incentives ... to," say, "That Hydro One develop soft-path ideas and work toward their implementation over the medium and long term."

1150

I don't know whether we can direct Hydro One to hand out incentives. I don't think that's Hydro One's job, but I think we need to focus their attention on the idea that they have to be cognizant of soft-path or locally distributed generation.

Hydro One, as well as other partners, has been working on this independently and with the instruction of government. As the Environmental Commissioner points out, we have a historical system that took over a century

to build, so we can't change that overnight. It's large, it's interconnected and it requires much time, work and investment to achieve the changes, but I think we're all in agreement about the need for leadership on this. If we could change that so it says, "Hydro One should develop a strategy to develop soft-path ideas and work towards...", I'd have no problem asking them to report back on a strategy.

Then again, the rationale is that any incentives or directions would have to be recovered by the taxpayer or the ratepayer through oversight of the Ontario Energy Board, which is outside the purview of what we're doing. But I would be in support of trying to get Hydro One to focus on this. I think it's the future.

Mr. Hampton: The reality is, if you follow the announcements made by the government and Hydro One and the disclosures just over the last two days, that the principal focus continues to be the building of major transmission lines. So it's not distributed generation; it will be very capital-intensive generation and very capital-intensive transmission lines. I'm not here to debate that.

I think the recommendation should be this: "That Hydro One be asked to report back on the potential to develop soft-path ideas"—the potential to develop them—"and the costs associated with those activities." I think we'd be fulfilling our goal. We'd be asking Hydro One a question they should be able to answer: What's the potential for this, and what are the costs going to be?

Mr. Wilkinson: Further, with all due respect to the Environmental Commissioner, I think we should use the term "distributed energy" as opposed to "soft-path ideas." I think there's general acceptance of what we mean by that as opposed to "soft path." I wouldn't want to give our friends at Hydro One a reason to interpret that soft path. I think we all agree in this committee what distributed energy is, which is: How can we make energy, the source, be close to the user? Of course that reduces the load on the transmission and it reduces the electricity that's lost in the transmission. From reports that I've read, there are some tremendous savings that would be available over the long haul.

We can't turn this around overnight. I think my friend the leader of the third party is correct, though, in the sense that that would help them bring some focus to this.

Mr. Yakabuski: This is not something that we have any disagreements on. I think we all recognize that distributed energy is something that is going to be a significant component and we're all supportive of it. So if we can have Hydro One's feelings on this, it would be positive for all of us.

Mr. Wilkinson: So this will come back at our next—

The Chair: Yes.

Mr. Wilkinson: Great.

The Chair: Let's move on to the standard offer contract.

Mr. Johnston: This is a related issue, as is obvious from the discussion. The Environmental Commissioner again spoke about the standard offer contract which the government brought in in March of this year. Bringing online an unlimited number of small-scale renewal gen-

eration projects creates a system of distributed generation. The commissioner noted that his office receives a number of complaints related to the ability of renewable generators to access the hydro grid, and he suggested a different model in which the grid system, like a transportation system, is regarded as a public good. Therefore the ability should be provided to maximize the opportunities for renewable energy generation for the long-term good of the public.

The recommendation that accompanies this is: "That Hydro One recover the cost of upgrades to the transmission system that facilitate renewable access through system charges, rather than by generator hook-up charges."

Mr. Wilkinson: This again, given my previous comments, is near and dear to my own heart. My constituents, who are really very innovative, see the opportunity that we as a society require and I know have had some frustration in this. I told them the other day, "You're not at the leading edge; you're at the bleeding edge of this. It is very difficult for us to change a system that's built on another model."

I think OEB has the regulations—I believe it's the transmission system code—which currently require that users pay. So if users, those who want an upgrade, don't pay, others in the same system will have to make up the difference. In the case of rural LDCs, this could be a significant cost that must be borne through higher rates, but on the basis of the kind of old thinking, which is, "I've got a new factory that I'm building and I need to connect to the grid because it's only going one way. I'm just pulling."

But this is a different way of doing it, because the wires are going both ways. They're not just pulling; they're actually generating electricity. The groups involved have come to me. Countryside Energy Co-op comes to mind, which is a farmer-owned co-op that's getting off the ground for wind farms. Lynn Cattle is in my riding. The young couple who own Lynn Cattle were the Canadian farming couple of the year last year, a true visionary farm family about what they're doing. And Stanton Bros.

I know that the government is looking at the issue along with Hydro One, and I would suggest that we could

change the word, that Hydro One "work" with the Ontario Energy Board to investigate ways to recover, because the direction we're giving them, or what we want them to perhaps report back, is, "Are we all on the same page here, Hydro One?" We can't have these impediments constantly thrown up. There has to be a new way of thinking. It is in the public's best interest that we go to distributed energy. That would be my suggestion on the wording.

The Chair: We are almost out of time. Are there a couple of quick comments before we adjourn?

Mr. Hampton: I'd want to suggest a slight change to the recommendation: "That Hydro One examine the feasibility and the cost of upgrades to the transmission system that facilitate renewable access through system charges, rather than by generator hook-up charges."

I don't know what work Hydro One has done on this, but I think that says to them, "If you haven't done this work, this committee recommends that you do it now. What is the feasibility and what is the cost?"

Mr. Wilkinson: But it does go beyond Hydro One in the sense that if Hydro One says, "We're going to do this," and OEB has a whole set of regulations that go on the 20th-century model—

Mr. Hampton: Yes, but we can't recommend to the OEB.

Mr. Yakabuski: We're just asking.

Mr. Wilkinson: It would be great if they could come back to us and say, "Okay, you guys want us to have less wires, not more." I can understand that there might be some pushback from them on that, but they have to serve the public good, and distributed energy—

The Chair: Excuse me. I need to remind you that we are out of time. What I would like to indicate to you just before we close is that at our next meeting we'll finish up the Hydro One draft 1, as we have a few pages left there. We will come back as well to look at the next draft of the Liquor Control Board of Ontario.

Ms. Smith: LCBO, not OLG.

The Chair: Yes, that's right.

We stand adjourned.

The committee adjourned at 1159.

CONTENTS

Wednesday 15 November 2006

Committee business	A-381
Subcommittee reports	A-381
Agency review	
Ontario Lottery and Gaming Corp.....	A-382
Hydro One	A-386

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52



A-24

A-24

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Standing committee on government agencies

Agency Review:

Hydro One

Liquor Control Board of Ontario

Comité permanent des organismes gouvernementaux

Examen des organismes
gouvernementaux :

Hydro One

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

Wednesday 22 November 2006

Mercredi 22 novembre 2006

The committee met at 1004 in room 228.

AGENCY REVIEW

HYDRO ONE

The Chair (Mrs. Julia Munro): Good morning. I'd like to call the committee to order. If you look at your agenda, we're looking at the draft of the Hydro One report. I think we're on page 11. If we go to page 11, any questions?

Mr. John Milloy (Kitchener Centre): I apologize. I wasn't here last week. We're starting with recommendation 18, are we? I just wanted to get—

The Chair: Any comments or questions on that section?

Mr. Milloy: Sorry, Madam Chair. I'm just getting my head around where exactly we are. Recommendation 18, "That Hydro One recover the cost of upgrades to the transmission system that facilitate renewable access through system charges": Is that where we are? We're just going to start right in and talk about the recommendations? Okay. I have no trouble with the thrust of that recommendation, but the fact is that the Ontario Energy Board would have to be involved in terms of allowing Hydro One to have that sort of approach. I'm wondering whether we could just say, "That Hydro One work with the Ontario Energy Board to find ways to recover the cost of upgrades." That would be a suggestion to clarify the role the OEB would have to play.

The Chair: Comments?

Mr. John Yakabuski (Renfrew-Nipissing-Pembroke): I'm not sure about working with the OEB, but it is within the authority of the OEB to determine how they're going to recover those costs. I'm not sure it's a directive making it Hydro One. John Wilkinson made comments that we were stepping outside the boundaries of Hydro One on a number of the recommendations in the report. I'm not sure how we go about it. Hydro One could certainly work with the OEB to analyze possible alternatives to generator hookup as the way to recover costs and report back to the committee with some suggestions perhaps. I don't think we're in a position to direct Hydro One on how to recover the costs, because we don't have that authority.

The Chair: Perhaps I could take us back to where we left off specifically on that recommendation. I'll ask Mr.

Johnston to give you the suggestion we had been discussing on that.

Mr. Yakabuski: That would be great.

Mr. Larry Johnston: I believe, when we ran out of time last week, the members were discussing changes to the wording to the effect that Hydro One examine the feasibility and cost of recovering the cost of upgrades to the transmission system through system charges rather than through generator hookup charges.

Mr. Yakabuski: That jogs my memory. I thought we had talked about this recommendation a little bit. I think we had almost agreed that we'd be satisfied with that recommendation.

Mr. John Wilkinson (Perth-Middlesex): I think that would solve the problem of the OEB.

Mr. Yakabuski: Yes.

The Chair: Any further comments? All right.

If we look further down the page, I'll ask staff to give us the background for recommendation 19.

Mr. Johnston: It is just continuing the discussion of Hydro One's standard offer program. Hydro One officials told the committee that since March there have been more than 400 requests and that there is a six-month backlog in processing these requests, despite a tenfold increase in the resources devoted to this area.

The possible recommendation is number 19, "That Hydro One dedicate more resources to meeting the response to the standard offer program and consider ways of streamlining the processing of requests."

The Chair: Any comments?

Mr. Yakabuski: Is Hydro One getting these requests? That's not really how the standard offer program works. They don't directly request Hydro One, do they?

1010

Mr. Wilkinson: Actually, if I could provide some clarity to my good friend, the process is that the individual farmer, say, doesn't go to the OEB. He's got to go to Hydro One, because Hydro One's got to say, "Will your line work? If not, it needs to be upgraded. Where would you connect?" Sometimes there's disagreement about what the closest connection is, what line has to be upgraded. As a result, Hydro One is part of that process of telling the farmer, "This is what we need for you to connect into our grid in a sustainable way."

The good news for all of us from rural Ontario is that the demand is there, that our local, rural communities want to be part of providing green, clean renewable

energy into the grid. This recommendation—we probably have all-party support—is that Hydro One should not be stifling that by saying, “Well, we have a resource issue. We can’t get back to you on this. Get in the queue.” I support this.

Mr. Yakabuski: I understand. But the response to the standard offer program should be something in which the OPA is directing Hydro One, saying, “We’re going to have to dedicate more resources, whether they be human and/or financial, to be able to handle this.” Given that the standard offer comes out of the OPA, they should be directing Hydro One and preparing them for it. They know what the expected response is. I’m not sure it is our job to tell Hydro One how to handle the response to the standard offer program. That’s something that the OPA should be doing.

Mr. Howard Hampton (Kenora–Rainy River): Can I suggest a little different wording? I think the second part of this recommendation is the most germane: that Hydro One “consider ways of streamlining the processing of requests” related to the standard offer program. The second part of the recommendation I would make “and that Hydro One examine the feasibility and the cost of dedicating more resources to the processing of standard offer program requests.”

I keep going back to what we heard from Hydro One. They basically said, “We do not have enough trained people and we’re having trouble getting trained people.” You’ll remember the back-and-forth that got into with the Society of Energy Professionals, who said, “Yes, you don’t have enough trained people, and the trained people you’ve got you’re not treating right.” This issue here—what resources do you have and where do you put the resources?—to a large degree goes to the core of the challenge that Hydro One is having. I think we should ask them, how would you streamline the process and what’s the feasibility and cost of devoting more resources to this?

I think we’re well within our position as a legislative committee to ask for that information. They may come back and say, “This is going to cost a certain amount of money and it will require us to hire this many more engineers and this many more that,” but I think we would want to know that and the government would want to know that, and the public would probably want to know it.

Mr. Yakabuski: Have we got the wording of that recommendation? I didn’t sense any problem with that recommendation. Could I get the wording?

The Chair: We can ask Mr. Johnston to do that.

Mr. Wilkinson: Chair, just to add anecdotally, talking to my rural constituents, particularly some of our farmers who are behind us, there is an increasing awareness at Hydro One because of these requests. The initial response they were getting was, “What’s a standard offer contract?” Actually, out in the field they were getting that response. There has been a huge education process about matching supply and demand, I believe to the point about the need to have people who are getting qualifications in

how to interconnect a line that isn’t just going one way—in other words, bringing electricity to my farm—but actually sending it back. I believe we’re getting some resources into Lambton College, which is moving ahead on training up more electricians who understand the unique requirements of connecting to the grid. A lot of that’s coming back anecdotally from a lot of people in our riding who have been connecting small energy projects to it.

I find nothing wrong with the suggestion from my friend from Kenora–Rainy River. I think it gets under Hydro One’s purview and also helps bring our assembly focus that they need to be dealing with this.

The Chair: Thank you. I’ll just ask Mr. Johnston to highlight what the suggestion was.

Mr. Johnston: The recommendation, if I understand it correctly, would now read as follows: “That Hydro One consider ways of streamlining the processing of requests related to the standard offer program and examine the feasibility and cost of adding more resources to the processing of standard offer requests.”

The Chair: Okay? All right. We’ll move on to the next section: “Service to the Agricultural Community.” Mr. Johnston, you have a few words to say about that.

Mr. Johnston: I’ll just note that representatives of the farm community told the committee of the importance, that they comprise more than 10% of Hydro One’s distribution revenue base. They also told that committee that, in their view, Hydro One has become more customer-oriented, more open and transparent, and has changed in several important ways to better integrate the views of its customers. However, they did note that Hydro One does not have a farm account representative to serve the agricultural community, so recommendation 20 is “That Hydro One provide a 1-800 line for farmers to connect with service representatives who are familiar with farm issues.”

The Chair: Any concerns? Any comments?

Mr. Hampton: Could I just suggest an addition? There are farm electricity issues and there are rural electricity issues. They’re similar, but they’re not the same. Wide swaths of this province are rural but are not necessarily farm-oriented, and they have very real electricity issues. Many of them are at the end of the transmission and distribution lines, so there are issues of reliability. There are also issues of the quality of electricity in that many of them are single-phase power, which does not allow you to operate certain kinds of equipment. A lot of energy-efficiency equipment could not be operated on a single-phase electricity system.

I would urge that Hydro One provide a 1-800 line for farmers and rural residents to connect with service representatives who are familiar with rural and farm electricity issues. I don’t so much want somebody who knows the price of beef or somebody who knows how to get a moose tag—those are rural and farm issues—but I think Hydro One does need to have people who understand the electricity issues of rural and agricultural Ontario, and they don’t right now.

The Chair: Comments?

Mr. Wilkinson: If I could add to the discussion—not the debate—in my opinion it is important for Hydro One reps to understand, since agriculture is such a big business. When you have a typical chicken barn with 25,000 chickens in it, the second the power goes out, they start dying within 38 seconds. That's a multi-million dollar investment. Of course, they all, wisely, have backup generators. No one is guaranteed a reliable source of power 100% of the time; it's just the nature of lightning storms and all that type of stuff. But it's their ability to understand that this isn't just some small operation down the street and they'd like to have the lights on, that this is huge economically. I have heard from my farmers some frustration at the other end, that they didn't understand that. But I take the point from Mr. Hampton about the fact that Hydro One serves rural Ontario. They should be sensitive to rural Ontario. It is their number one—

Mr. Yakabuski: Customer base.

Mr. Wilkinson: Customer base, absolutely.

Mr. Hampton: They also get to charge the big rates to rural Ontario.

1020

Mr. Yakabuski: I would concur with the recommendation.

The Chair: As it is or as it has been proposed?

Mr. Yakabuski: As amended.

The Chair: I'd just call your attention to number 21 on the next page.

Mr. Yakabuski: The only thing I would like to add is that there is no—oh, sorry. There is something in the next part about stray voltage.

The Chair: I only draw your attention to that in questioning whether recommendation 20 as it stands is appropriate, given 21, or if you'd want to change 21 to the suggestions Mr. Hampton has made.

Mr. Yakabuski: I think they're both fine. One establishes the ability for someone in a rural or farm setting to connect directly with someone who is familiar with their issues, and 21 is more general about how Hydro One addresses rural issues, both today and in forward planning. I think they're both fine.

The Chair: All right. Is it the wish of the committee to go with the adjusted recommendation number 20?

Mr. Yakabuski: Yes. We don't want somebody from rural Ontario calling in and being told, "Sorry. This is just for the agricultural community." We want the rural included in the 1-800.

The Chair: Thank you. We'll look at the text, then, leading up to the next recommendation.

Mr. Johnston: A variety of other issues were raised to the committee by representatives of the OFA. These included matters such as stray voltage, line losses, the possibility of allowing private suppliers to provide some types of service when Hydro One's own crews are backlogged and concerns about the need to add three-phase lines so farms can send power to the cities as well as draw it from large power plants. The recommendation that attempts to address all of these concerns is number

21: "That Hydro One be encouraged to include the needs of Ontario's farm and rural business sector in its forward planning, as well as the future capacity of Ontario farms as an important source of renewable energy."

The Chair: Comments? Any comments or concerns? Okay. Let's move on, then, to the text for "Planning for Climate Change."

Mr. Johnston: The Environmental Commissioner presented data that since September 2005, Ontario has experienced six severe storms with a total loss of service of 683,000 customers; the three storms in 2006 have averaged 140,000 customers with lost service. The Environmental Commissioner is clearly of the opinion that these kinds of trends will continue in the future and perhaps be exacerbated by other effects of a warmer climate. Therefore, in the Environmental Commissioner's view, Hydro One needs to do more planning to accommodate the effects of climate change.

Recommendation 22 reads "That Hydro One develop and adopt a strategy for adapting to climate change in order to increase the reliability of the system by taking proactive measures in anticipation of future problems."

The Chair: Any comments?

Mr. Milloy: This is more of a drafting comment. There's something about the use of the term "and adopt." If you said just that Hydro One "develop a strategy"—it's the "and adopt" makes it sound very static. I'm assuming that everyone on the committee thinks they should be constantly developing an ongoing strategy to deal with it. It's a minor change, but I just suggest dropping "and adopt," but more for drafting purposes.

Mr. Yakabuski: Sorry, John. I was reading an e-mail. I apologize.

Mr. Milloy: I just suggested that it say that Hydro One "develop a strategy" for adapting to climate. The "and adopt" seemed to be a bit—

Mr. Yakabuski: I can live with that.

The Chair: Okay. Let's move on, then.

Interjection: Is that the last one?

The Chair: That is the last recommendation. Are there any problems with any text on the last page? If not, this concludes the review of this draft of the Hydro One. We will be looking at reviewing it again as the next draft is available to us.

LIQUOR CONTROL BOARD OF ONTARIO

The Chair: We move on to look at draft 3 on the LCBO. We're looking at draft 3 and the inclusion of an introduction. I think the first change is on page 11, merely a reference being made to the source for the hierarchy of recycling. Then, if we go to page 12 and 13, we see the beginning of some changes. I'd ask Ms. Hull to walk us through some of these.

The Chair: I'm sorry, Ms. DiNovo?

Ms. Cheri DiNovo (Parkdale-High Park): Just a question coming out of our last discussion: I seem to remember that there was some discussion. Smith and myself and I think others were wondering about the

inclusion of this information at the front rather than in the index.

The Chair: That conversation was actually with regard to the lottery and gaming.

Ms. DiNovo: Oh, right. Sorry. The coffee hasn't kicked in. Thank you.

The Chair: Just as a reminder, of course we're looking at draft 3, so we have been through all of the text. But the conversation was on lottery and gaming.

Ms. DiNovo: Thank you, Madam Chair.

The Chair: Mr. Milloy?

Mr. Milloy: I had two quick comments that relate to the section before page 11. I'm looking for your direction about when I could make those. They're not huge comments, if now is the time.

The Chair: Now is the time.

Mr. Milloy: Actually, I'm picking up on my colleague's comments. The first is on pages 5 through 9, the section that ends with "Discussion and Recommendations," which has some background information: income statements, board of directors etc. To echo my colleague's point, perhaps referring to a different report, the question is whether that should be put in an appendix at the back so we move right to the "Discussion and Recommendations"—not to remove it from the report, but just to reorganize it. I had one other comment, but I'll hold it for a sec.

Ms. DiNovo: I know this is a form question, but I would tend to agree. In light of our conversation around the gaming commission, this is a very similar sort of report in some ways. If we took this piece out and put it at the back rather than the front, it would be more readable.

1030

Ms. Laurie Scott (Haliburton–Victoria–Brock): I don't think anyone here has done an agencies review. The researchers were going from the format they had used previously. Maybe we should leave this in the format in which they've set it up for now, and then as we go on and interview more agencies, maybe we can tell them ahead of time to change some of the format. I think it's difficult in the middle of the process, where we weren't clear before about where to put sections in the reports. Maybe it's for the next time when we do agencies and interview them. The researchers may want to comment on how to present it. The content is all the same; it's just creating a lot of extra work for them. Maybe it would be fair to say that from this point forward, we can change how we'd like the material presented and the order we'd like to present it in.

The Chair: Any further discussion?

Mr. Milloy: Just to clarify, I'm just talking about taking from 5 to the end of 9 and putting it in an appendix, not rewriting anything. It would just be cut and paste and stick it in the appendix, not a rewrite. I don't know. If research is following a particular pattern or a particular—

Ms. Hull: I'd like to suggest keeping the structure and organization of the board in the front section, because then the appendix will be strictly financial information.

The Chair: Ms. DiNovo?

Ms. DiNovo: I would be fine with that. This just draws from our work in this committee on another report. Obviously, it certainly was the will of the committee at that point to make that move. If our legislative researchers are happy with—I don't want to weigh them down with more work, but if it can be done with a minimum amount of work, let's do it.

Ms. Hull: I would just like to add that one of the reasons for putting some of this in the front is because it's very positive information. Seeing the very high dividends paid by the LCBO to the province, we thought that was, in part, a way to respond to the concerns that the reports were too negative. OLGC and LCBO are obviously very profitable organizations for the province, and it's a way to draw attention to those facts.

Ms. Scott: I would like to leave the order of the report the way it has been prepared, for the reasons brought forward by the researchers, if that's possible.

Mr. Milloy: I see Ms. DiNovo nodding her head. If that's the will of the committee—it's just a matter of the organization, not the content.

I did want to raise one other point on page 9: "The LCBO is now frequently cited as a leading exponent." The word "proponent" might be more suitable. That's more just a—

The Chair: I'm sorry. Could you just say where that is?

Mr. Milloy: On page 9, the second-last paragraph, beginning with "The LCBO is now frequently cited..." I thought the word "proponent" might be more suitable.

The Chair: If I might exercise a little liberty as the Chair, I would just suggest that with the contents page we have in this particular draft, it's very clear: the differences of the first pages in terms of what they are, and then the second, beginning on page 9, the discussion and recommendations.

Ms. DiNovo: I'm not vested in this. I just thought, coming out of the other meeting looking at the other report, that there was some logical continuity there. But I like Ms. Hull's explanation. Of course we want to laud the work of the LCBO. I'm not vested in it and I'm happy to let it stand.

The Chair: Okay. Are we ready to go to pages 12 and 13, where we have changes made? Ms. Hull, I'll ask you to say a few words.

Ms. Hull: The remaining changes are really just for ease of reading. The change on page 12 was strictly because that sentence was quite awkward. It still is a bit awkward, but I think it's a bit better now.

The Chair: I'll just read the sentence. "The LCBO noted that the use of aseptic beverage alcohol containers, a reduce strategy, has only emerged in the past year and therefore no data yet exists on their recycling potential." Sometimes it does require a little attention to get through

that, but I think that reflects what our conversation was at the time.

Let's look at page 13, again rewording: "The committee therefore recommends that: Consideration be given to designating the LCBO as a prescribed agency under Ontario's Environmental Bill of Rights." Again, this is consistent with our discussion.

If we go to our next change, number 3: "Blue boxes be made available at LCBO retail outlets until a deposit-return system is in place across the province."

Mr. Milloy: Can I make a friendly suggestion? I apologize, because I don't have any specific wording, but I think we all agreed that the section "The committee may wish to give further advice when details..." be removed. I apologize that I don't have any specific wording, but should we have a few sentences acknowledging the fact that the announcement has been made and that we're moving forward on the LCBO deposit situation, just a few general sentences to acknowledge it? I pose that in a friendly way. I don't have any words that I'm wedded to. Perhaps for the next draft, if people don't object.

The Chair: Did you have a comment to make?

Mr. Johnston: This raises another issue on which I hope to ask the committee's advice, similar to the point raised last week dealing with the OLGC report: "The committee was informed that one of the members of the board was deceased." My concern is that, at the time of the review, that was not the case. The question is, does the report reflect the situation at the time of review or do we continue to revise the report as we are drafting it through the subsequent weeks? Of course, much has probably changed with respect to more than one of the agencies. This raises a question, does the report reflect what happened at the beginning of September or what has happened since as well?

The Chair: This does require our due reflection. Ms. Scott?

Ms. Scott: I think the report we're providing should reflect what we heard at the time. That's maybe why this was taken out originally. I'm trying to remember back. I think we should not go down that path. No disrespect, but I think we should just leave it as the time at which the committee heard the agency's testimony.

Ms. DiNovo: I would support that, and Mr. Johnston's comments. We could be involved in an endless rewrite here, but I think we need to reflect where we were. We're making changes, but not substantive change at this point. I'd like to see it stand as written.

The Chair: Mr. Parsons?

Mr. Ernie Parsons (Prince Edward-Hastings): We would agree. I think the report is a snapshot in time on the day we met with the agency, otherwise we would be revising up to the minute we table it in the Leg.

The Chair: Thank you. There being no further comments, we can go to the change on page 14. That, obviously, is the preamble for the recommendations on page 15. I'll ask Ms. Hull to take us through.

Ms. Hull: It's not as bad as it looks. I just moved the red section—I had the recommendations positioned in a

different spot in the previous report. The text is the same. The committee is welcome to look it over, but it's the same as it was before. I just moved the recommendations to the end of the section.

The Chair: The recommendations remain the same? I'd just ask for any comments. This takes us over to the top of 16, that whole section. Mr. Milloy?

1040

Mr. Milloy: Madam Chair, if I could. This is an organization suggestion. Regarding the section on page 15, "LCBO officials noted that private operators risked losing their licence if they sell alcohol to minors or intoxicated individuals...."—that paragraph that ends with the words "e.g., underage"—I'm wondering if it would make more sense for that paragraph to be on page 14 after the discussion of OPSEU officials. OPSEU officials at that point are talking about some of these issues, and it just seems to flow that we then—OPSEU touched on the underage, and then you have the LCBO response. It would just be a question of moving that paragraph over.

The Chair: Any other comments on that? I agree with you about the OPSEU paragraph—it's the first whole paragraph on 14—but the ones immediately below it refer to the agency stores.

Mr. Milloy: I'm suggesting that the LCBO response to the issue of selling alcohol to minors or intoxicated individuals follow the OPSEU paragraph, so we'd move 15 over. Then the next paragraph would be "OPSEU officials"—it would turn to the subject of agency stores.

The Chair: Ms. DiNovo, did you wish to comment?

Ms. DiNovo: I'm not vested in the paragraph organization, but after the OPSEU paragraph, it does start by saying, "LCBO officials responded...." so there is that. They're responding to OPSEU and then it just goes on. We might say, "LCBO officials also noted" or something, but it starts off with a response from the LCBO officials, so I don't really see the necessity to move things around at this point.

Mr. Milloy: Now I'm lost. I think my colleague may have misunderstood what I'm suggesting. I'm just suggesting the first full paragraph on page 15, which begins "LCBO officials noted" and ends with the word "underage," be moved to page 14 and follow the first full paragraph on page 14, which begins with "OPSEU officials argued" and ends with the words "these allegations." It would just move that paragraph over underneath, and that's it.

Ms. Scott: I'm fine with that if research is fine. It's a small technicality.

The Chair: Okay. So we're ready to move on. The recommendation: Essentially nothing has changed from the previous draft except that we look at what is the new number 6, and that takes us over to page 16 and the removal of an earlier recommendation. Any further questions or comments on that section? We're now at the middle of page 16 unless there are comments on that section.

Okay. Let's look at page 17. This deals with domestic small producers. There has been the inclusion of infor-

mation here. I'll ask Ms. Hull to talk about that, as well as the change in the committee's recommendation.

Ms. Hull: I was asked to make clearer the trade agreements that prevent the issuance of more off-site winery retail store licences, so I took this information—I don't know if you recall that I answered a number of questions in a separate document on the LCBO. I just took the information that had been presented to the committee there; that's in the middle of page 17, and that supports the now amended recommendation 8.

Mr. Milloy: Just a very minor suggestion, again a question of moving something. I suggest that the sentence "The CEO also highlighted the misconception that Ontario wine is 100% Ontario grown, when it is often blended" follow the information on the various trade agreements. It's just to move that down. It's just a question of organization.

Ms. Hull: It's the CEO of the Grape Growers of Ontario, though, not the CEO of the LCBO, so it follows from the grape growers' presentation.

Mr. Milloy: I was just saying to move that below the red, after "In response to the committee's request for further information...." section.

Ms. Hull: The point the CEO of the Grape Growers of Ontario is making, though, is a criticism of the LCBO. I could make it more explicit, but if it follows what the LCBO said, I don't see how it flows.

Mr. Milloy: Oh, that's the CEO of the grape growers.

Ms. Hull: Yes.

Mr. Milloy: Maybe we should say "The CEO of the Grape Growers of Ontario" in that sentence.

The Chair: If you look at the bottom of 16, it says, "However, the CEO stated that several outstanding issues prevent Ontario wines...." and then it lists those. That is the context in which that sentence stands. But I agree that changing it to "The CEO of the Grape Growers of Ontario" clarifies it. Any other comments?

So we're looking at the next section, dealing with the craft brewers. That's 18 and 19. The issue of space allocation is obviously the key one here. Ms. Hull?

Ms. Hull: Once again, all I've done here is move the sections in red on page 19. They had originally followed the recommendations because the recommendations had been made by Ontario Craft Brewers. Now that they're committee recommendations, I've just moved everything prior to the recommendations.

The Chair: Again, the recommendations themselves have not in any way changed. Any comments or concerns? Okay, let's move on to page 20. Very simply, what is now recommendation 13 becomes "That the LCBO continue to improve its social responsibility programs." The next one, 14, is "That the LCBO consider increasing the percentage of its budget devoted to social responsibility, approximately \$2.5 million at present." Any comments or concerns?

Then let's look at the top of page 21. Ms. Hull?

Ms. Hull: Once again, it's the same issue as before. I just moved the text to prior to the recommendation.

The Chair: Okay. The recommendation then is "That the LCBO develop a strategy to address the long-

standing problem of the sale of large quantities of alcohol to known bootleggers, in partnership with the Ontario Provincial Police and First Nations' police services."

On 21, recommendation 16 is just a numbering change.

1050

Then we're looking at page 23 and the recommendations as a summary. Any questions? I think there have been two or three changes from this—

Ms. Hull: Yes, right.

The Chair: I would just ask the committee, with regard to directions on the final changes, whether they would be satisfied to have this report go to the Chair or the subcommittee or the full committee.

Interjection.

The Chair: Yes, there are four relatively small changes. What would be your preference?

Mr. Parsons: Subcommittee.

The Chair: That's fine. Good.

Following on that, shall the final report be translated and printed? All in favour? Agreed.

Upon receipt of the printed report, shall the Chair present the committee's report on the Liquor Control Board of Ontario to the House and move the adoption of its recommendations? Agreed.

For the sake of Hansard, I need to ask you, shall the draft report on the Liquor Control Board of Ontario, as amended, be adopted? Then we're going to do the final checking through the subcommittee. All those in favour? Thank you.

COMMITTEE BUSINESS

The Chair: The other business we need to discuss is the question of timing for agency reviews during the winter recess. You may recall that the committee has chosen a number of other agencies to look at, so we need to seek the approval of the House to meet during the intersession period. I would ask you to consider when you might want to sit and how many days. Might I suggest, to begin the discussion, that we look at February as opposed to January?

Ms. Scott: February seems fine, but the subcommittee can make the final selection of dates to meet. Is that the process?

Mr. Parsons: We're leaning towards February 30 and February 31.

Laughter.

Ms. Scott: Excellent. I could be in favour of that.

The Clerk of the Committee (Ms. Tonia Grannum): We need to determine whether you're going to give the Chair authority to write to the House leaders to ask for time in the recess. If you want, then you can have a subcommittee meeting to determine those actual dates and report back to the committee, if that's what you wish.

Mr. Parsons: But in general parameters, we're looking at February. Yes.

Ms. DiNovo: If that needs a motion, I so move.

The Chair: Okay. I will write to the House leaders, and then we'll have a subcommittee meeting to look at actual dates, if that's fine.

Mr. Parsons: It's what we did last time.

The Chair: Yes.

On the other item, I call your attention to the two memos you have received: "Additional Information on 'Report Back' Mechanisms Employed in Previous Agency Reviews," as well as "Recommendations in Previous Agency Reviews." Take a couple of minutes to look at those. We'll look at the question of recommendations and then at the report-back. Do people have any comments with regard to the whole issue of recommendations based on previous agency reviews?

The Clerk of the Committee: I'd just like to mention—if I'm looking at the LCBO report, most of the recommendations are that the LCBO report back to the committee. In practice, I know that in the public accounts committee, when the report is tabled we send a copy to the agency and we would also send a copy to the minister. The clerk would send a letter to the agency saying, "Here's your copy of the report. Please note the recommendations contained in the report and please provide

responses to all the recommendations contained in the report to the committee by such and such a date." That seems to work really well. If there were recommendations for the minister to respond to, we would do the same thing, send the letter to the minister and flag that there are recommendations and that on all recommendations they should respond to the committee by a certain date." They seem to follow that practice, especially in the public accounts committee, so that would probably work really well in this situation as well.

The Chair: Any comments?

Mr. Parsons: That's fine.

The Chair: So we'll do that.

The other one is the memo you received—the ministry's on recommendations. That's a very similar kind of direction there, so I just wondered if you have any comments on that particular memo. All right. Then next week we'll go back to the OLG and look at the next—

Mr. Johnston: Draft 3.

The Chair: Yes, draft 3. We'll be looking at the OLG draft 3 and the Hydro draft 2 next week.

The committee stands adjourned.

The committee adjourned at 1058.

CONTENTS

Wednesday 22 November 2006

Agency review

Hydro One	A-397
Liquor Control Board of Ontario.....	A-399

Committee business	A-402
--------------------------	-------

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52

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A-25



A-25

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Wednesday 29 November 2006

Mercredi 29 novembre 2006

**Standing committee on
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**Comité permanent des
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Agency Review:

Examen des organismes
gouvernementaux :

Hydro One

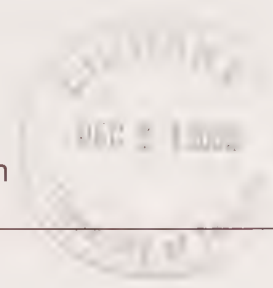
Hydro One

Ontario Lottery and Gaming Corp.

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

Wednesday 29 November 2006

Mercredi 29 novembre 2006

The committee met at 1005 in room 228.

SUBCOMMITTEE REPORT

The Chair (Mrs. Julia Munro): I'd like to call the meeting this morning. If you have a look at the agenda, the first item is the report of the subcommittee on committee business dated November 23. Mr. Parsons?

Mr. Ernie Parsons (Prince Edward–Hastings): I would move acceptance.

The Chair: Thank you. Any comments, questions? All in favour? Thank you very much.

AGENCY REVIEW

HYDRO ONE

The Chair: Let's move on, then, to the second item on our agenda, which is consideration of the draft reports, and we're beginning with Hydro One, draft number 2. As we have before, we'll just go through individual pages.

Just to draw your attention, we have the contents, and on page 2 we have the first comment on the material. You may wish to just simply take that as a drafting editorial note or you may wish to have it included. Comments? Leave it as it is?

Mr. John Milloy (Kitchener Centre): The question I had is, we had discussed at the first meeting the possibility of beefing this up with a bit more of positive comments. I'm just not sure where that went. There were some positive things. So I apologize. I just walked into the room but I just wanted to raise that right at the beginning.

The Chair: I think those are within the context of the report itself. However, I'll ask Ms. Hull to clarify, if she wishes to respond to your question.

Ms. Carrie Hull: If you recall, for the other two reports we put the introductory comments that the agency made at the very beginning of the discussion and recommendations section, which is on page 7. That provides a brief overview of Hydro One's comments, and I believe they include all of the positive comments that you mentioned from several weeks past.

Mr. Milloy: Okay.

Ms. Hull: There are also other, additional positive comments that I was able to glean from the post-committee material presented by Hydro One.

Mr. Milloy: Thank you.

The Chair: Any comments, then, looking at page 2? Moving on then to page 7, which I think deals with the opening remarks that Mr. Milloy just referred to, so if there are any comments there? All right. Further to the background opening remarks on pages 8, 9 and 10, and we're looking then at the recommendation on page 11.

I'll ask Ms. Hull to provide us with a few comments leading up to the recommendation on page 11.

Ms. Hull: Much of the material on pages 9 to 11 is just a reordering, but I have added extra material because the documentation provided by Hydro One following the committee hearings was quite lengthy, and I'm not certain that committee members had a chance to go through it.

1010

There are additional comments about how Hydro One calculates its safety statistics. There are a number of different sets of statistics that are used by Hydro One. Several weeks ago, we discussed the Canadian Electricity Association statistics. Hydro One also keeps its own material. I've noted that on page 10. The statistics are quite complicated. I tried to determine whether there were patterns that could be gathered from the material presented. Perhaps committee members would like to read this section because some significant material has been added.

Mr. John Yakabuski (Renfrew–Nipissing–Pembroke): We're talking—

Ms. Hull: Pages 9 and 10.

Mr. Yakabuski: Okay. I thought that was all new.

Ms. Hull: Some of it is just reordered from the previous session, but there is significant new material in there.

Mr. Yakabuski: So anything that's in red and underlined is new material?

Ms. Hull: Some of it has just been shifted. Unfortunately, that's the way the editing program works. It's in a new order just for ease of reading, but there is new material as well.

Mr. Yakabuski: Okay.

Mr. John Wilkinson (Perth–Middlesex): Is that where the material is, on page 9?

Ms. Hull: On page 9, the bulleted paragraphs. This is information the committee had several weeks ago. The Canadian Electricity Association gathers statistics on three fronts: lost-time injury frequency, and that's how many injuries occur where an employee actually loses

work time; lost-time injury severity—how many days lost, on average, did an injury cause? The third statistic is all-injury frequency, which covers all injuries, including deaths. Deaths are not covered by lost-time injury severity or frequency. Also, basically anything where a doctor was called for services beyond first aid.

In the material that Hydro One presented following the committee, they informed us that they are in the top quartile of the Canadian Electricity Association for the first two statistics. However, the third statistic does cover some fairly serious measures, including fatalities and also disabling injuries. So Hydro One is not in the top quartile of the CEA's statistics for the third measure.

The next paragraph, about Hydro One formally publishing information, is material that the committee previously had. The bottom paragraph with the new bullets on page 9: Hydro One did say, "Yes, we are trying to improve our safety record," and they gave me the bulleted information that takes us on to page 10. So they have tried to improve some measures to improve their safety record.

I don't know if the committee recalls, but immediately following the hearing—actually, more like a month following the hearings, we were given fairly complicated statistics from Hydro One covering 2004-05. They did not provide any analysis of the statistics. There are just about 10 or 15 safety measures in that material.

As I was saying at the beginning, it's very hard to distinguish any patterns in this material. There are definitely some measures that seem to show improvement. However, Hydro One did change its method of calculating these statistics in the past two years. I think it's fair to inform the committee that Hydro One did not tell me that they made that change. I had to find out myself. I had to ask Hydro One quite directly why the numbers differed quite drastically from 2004 to 2006. They made this change in line with changes approved by the Canadian Electricity Association in 2005.

Bearing this caveat in mind, there does seem to be improvement on some measures. However, in my opinion, other measures do not show any distinguishing patterns and some of those measures are for fairly serious matters, including high, maximum, reasonable potential-for-harm incidents. That doesn't mean that someone necessarily was severely hurt, but the incident could have led to a serious injury if something didn't happen.

I also contacted the Ministry of Labour and the WSIB. Both bodies informed me that they're very confident of their placement of Hydro One in the high-risk firms in the province. Hydro One claims that the dispute about the ranking depends on the calculation of days lost due to injuries. The WSIB and the Ministry of Labour have informed me that it's a measure of the total cost of claims that place Hydro One in the top 2% of firms in the province.

The Chair: That takes us to the recommendations. Are there any comments, then, on any of the materials presented by Ms. Hull or any comments on recommendations 1 and 2? The first one is clarifying the nature of the discrepancy, and—go ahead, Mr. Yakabuski.

Mr. Yakabuski: I just wanted to ask one question. According to what I'm reading here, if there was a fatality on the job prior to 2000-and-whatever, I saw, they would have to account for 6,000 days lost prior to 2005.

Ms. Hull: Yes.

Mr. Yakabuski: And since then, they only keep track of the actual days lost. They did not inform us of that change in the procedure.

Ms. Hull: No. In the statistics that I was given, I saw a discrepancy, and I had to ask for clarification about what happened.

Mr. Yakabuski: Well, that concerns me. That kind of major change, I think, is something that should be volunteered. I think anybody who is properly representing the facts should take it upon themselves to ensure that those kinds of serious changes in the way that you keep track of things are disclosed fully and completely.

The Chair: Looking at recommendation 2, obviously that's, I think—

Mr. Yakabuski: I am concerned that Ms. Hull had to seek that information because she saw what seemed to be significant changes in the data and wanted to know why, and it was only then that that information was volunteered to her. I don't think that's the way we should be getting information.

The Chair: Thank you very much, Mr. Yakabuski.

I ask you now to turn to page 12, where we're looking at the inclusion of further material there on page 12. Yes?

Mr. Wilkinson: Could I just ask Carrie about page 11—just a quick question. So you've made some changes to 1, to clarify, and also on 2, about publishing? This is information on this discrepancy about metrics, because obviously it needs to be consistent. We're recommending that they publish against their peer groups, right? That should be public. But at the bottom of 1, then you said, "and take steps to improve its safety performance." Why wouldn't that be a third bullet?

Ms. Hull: Why—

Mr. Wilkinson: Just logically, do you know what I mean?

Ms. Hull: That's entirely up to the committee. I think that's probably a sound recommendation.

Mr. Wilkinson: Sorry, I wasn't here. Did we ask you to add that into 1, or did you just add that into 1?

Ms. Hull: I added that in, but you're welcome to remove it or create a separate recommendation.

Mr. Wilkinson: Because I just think that, logically, it just seems to be added in there.

Ms. Hull: I know that last time the committee had some question about whether there had been any resolution to the deliberations between WSIB and the Ministry of Labour. I was able to ascertain that, as I said, the ministry and WSIB are very confident about their placement of Hydro One.

Mr. Wilkinson: I assume we all agree that obviously all of our employers, particularly Hydro One in this case, need to improve their safety record. We're all on the side of making sure the workplace is as safe as possible.

It just strikes me to be not logical to put it there. If that's what we want to say, we should actually make that a point and say that that's the recommendation.

Mr. Yakabuski: I agree with Mr. Wilkinson that that should be a separate recommendation.

The Chair: I appreciate that. Having it included, it looks as if it's a secondary issue to the issue of—

Mr. Wilkinson:—clarification.

The Chair:—clarifying. Clarification isn't the same thing as improving your safety record.

Mr. Wilkinson: In 1, talking about discrepancy—the discrepancy is not going to solve the problem, so I would assume that all of us, all parties, agree on the sub-point on number 1, but it should be a separate point if we're going to make that point.

The Chair: Certainly Mr. Yakabuski has indicated that. Any further comments on making that a separate recommendation?

Mr. Joseph N. Tascona (Barrie–Simcoe–Bradford): What specifically is he going to use?

Mr. Wilkinson: The language, right?

Mr. Tascona: What's the language you're going to use as another recommendation?

Mr. Wilkinson: Well, I might preface it with, "In our recommendation, we encourage Hydro One to take steps to improve its safety performance." That's motherhood and apple pie, but if we're going to state it, we should state it clearly.

1020

Mr. Tascona: At this stage of the proceedings, in terms of the committee having to report back, quite frankly I don't see the necessity to fine tune it any more; otherwise, it's just going to go back to the subcommittee. We're supposed to report back by next week. I think it might be prudent to minimize as many changes as we can if the impact of what we're trying to do here is done; otherwise, it's going to have to come back to the subcommittee—which I had to do yesterday, sign off on a report, because there were some minor, minor changes. Unless it's fundamental, I would just—

Mr. Wilkinson: It just struck me, like the Chair, that it seemed to be taking a very important point, the salient point, and making it as some kind of a passing reference in another recommendation.

Mr. Tascona: I don't think it's a passing reference. I think it's part of the full recommendation. But that's just my opinion.

Mr. Yakabuski: When are we supposed to be done this procedure? Were we supposed to finish this today?

The Chair: I'll defer to Ms. Grannum.

The Clerk of the Committee (Tonia Grannum): The committee wanted to have the report presented in the chamber before the House rises for the winter recess, but it's up to the committee. If we have to come back and do another draft, you may have to report back during the recess, which the House gives us authority to do.

Mr. Yakabuski: I guess the challenge—

Mr. Tascona: The subcommittee report was very clear: that we endeavour to have it completed today and report back to the House next week.

The Clerk of the Committee: It wouldn't be next week, because we still have to translate and print, and translation takes five days.

Mr. Yakabuski: My question would be: If we make any changes at all today, we would have to come back, correct?

Mr. Tascona: No.

Mr. Yakabuski: No?

The Chair: We can do as we did with the other report and simply—

Mr. Yakabuski: So we would not have to bring it back to the full committee?

The Chair: We would just be looking at any kind of minor changes, as we did last week. I think there were three or four minor changes, and we all agreed that—

Mr. Yakabuski: Okay, I understand; I just wanted to clarify that. So it does not have to come before the full committee if there are just some minor grammatical errors or changes.

The Chair: That's right. Essentially, what we're looking at is that any substantive issues would obviously have to come back to the committee. Ms. Hull?

Ms. Hull: I was just going to remind the committee, though, that this is only the second draft of the Hydro One report, and the other reports were on their third or fourth drafts.

Mr. Yakabuski: We got started late.

The Chair: All right. My question to the committee is: If you wish to put it as a second or stand-alone recommendation, would the suggestion of the wording not constitute a substantive change?

Mr. Wilkinson: That was taken out as the third point. It said that the committee recommends that "Hydro One take steps to improve its safety performance." It actually gives it the prominence that it should have. I think we all agree with that.

The Chair: Yes. All right, let's move on, then, to pages 12 and 13. On page 12, you have a couple of additional statements. Ms. Hull, would you care to give us an overview there, leading up to the recommendation on page 13.

Ms. Hull: Pages 12 and 13 address the issue of Hydro One working with colleges and universities to develop training programs to address the skilled labour shortage in the next few years. I was asked to merge former recommendations 3 and 4 into a single, longer recommendation. That's on page 13. Once again, though, in the background, the post-committee material, I was able to find a few other bits of information I thought might be of interest to the committee. Those are all on pages 12 and 13.

The Chair: Any comments on this particular section? We can look at "Labour Relations," then, starting at the bottom of page 13. Ms. Hull.

Ms. Hull: This issue, as we know, has been somewhat sensitive before the committee. I was asked to remove a

few sentences from the "Labour Relations" paragraph and add Hydro One's comments that they had made in closing during the day of the committee hearings, and that material is presented on page 14. Hydro One basically says they have good bargaining relationships with their other unions. The society, for its part, says it has bargained successfully with all its employers as well. So the committee has to decide the contents of the recommendations on page 14.

The Chair: There are no changes to the recommendations on page 14. That would be those we have already seen. I take you, then, to page 15, where it's merely a drafting change.

Interjection.

The Chair: I have been informed that we have not agreed on the two recommendations on page 14. Any comments on either of those?

Mr. Howard Hampton (Kenora-Rainy River): You're talking about the recommendations that used to be numbered 45 and 56? Is that right?

The Chair: Recommendations 4 and 5 have become 5 and 6.

Mr. Hampton: All right.

Mr. Tascona: What are they?

The Chair: If we put in another one—

Interjection.

The Chair: Yes. Moving on to page 15—

Mr. Wilkinson: Just a question on page 14: So this committee can recommend that the government do something and not recommend what Hydro One should be doing? Do you want to clarify that for me?

The Clerk of the Committee: The committee couldn't recommend that the government—maybe we could reword that.

Mr. Wilkinson: Pardon me, Tonia?

The Clerk of the Committee: We shouldn't be recommending that the government—we don't have that authority.

Mr. Wilkinson: So recommendation 45 seems to me to be out of order.

The Chair: If you wish to take it out or if you wish to find someone else to take on this responsibility—

Mr. Hampton: A point of clarification: You're saying we don't have the authority as a—

The Clerk of the Committee: We can recommend. We shouldn't be saying that the government "appoint." We could say that we recommend the government do something, but this is specifically saying that the government appoint. Make it more of a recommendation: "We recommend that the government do—"

Mr. Hampton: I'd like to speak to that for a minute. I think this is an important issue for a couple of reasons. We know there are continuing serious labour relations issues at Hydro One. This was what really struck me: We heard from both Hydro One management and the Hydro One board that they're having trouble getting the engineering professionals and technically skilled people they need. We heard from the Society of Energy Professionals that they're having trouble getting the engineering

capacity, the engineering skills, the technical skills they need, and yet we find out, as we delve deeper, that people who have these degrees are not being offered full-time positions.

If there's a real competitive battle by other utilities and other energy companies out there to get these people, and other companies are offering full-time positions but Hydro One is only offering part-time, contract or temporary work, it says to me that there's an even more serious problem about to happen. I wouldn't feel comfortable, as a member of this committee, walking away without putting in a recommendation saying that there's the potential for even more serious difficulties here. If the government chooses not to delve into it—governments can make that choice. But I couldn't walk away from this committee and ignore what seems to be happening here.

1030

Mr. Wilkinson, you admitted they don't have enough engineering folks to do some of the work that needs to be done to bring distributed generation online. They don't have enough engineering professionals to deal with the off-grid issues and so on. They don't have enough—I think I'm using Mr. Parkinson's words here: They're having trouble getting the kind of qualified engineering professionals they need for this organization to go forward. Yet when you delve deeper, the corporation itself is not hiring people on a full-time basis. It's like saying you're welcome, but you're only welcome halfway. I think we would be doing a serious disservice to the people of Ontario if we ignored this issue.

The Clerk of the Committee: Because it says, "The committee therefore recommends" that the government appoint a committee, it's fine. I totally missed "therefore recommends." It's still just a recommendation; it's not ordering the government do anything.

Mr. Wilkinson: With all due respect to my friend Mr. Hampton, is it the recommendation of this committee that how we solve that problem is that the government of Ontario strike some other independent committee that does a review of the past management practices of Hydro One and monitors the current management practices of Hydro One? Listen, they're either an arm's-length agency or they're not. We've done a review. They're coming to us, and we're hearing different things from different sides.

We had a discussion about how it's not appropriate for us to get in the midst of taking sides. I hear your point, but somehow having a government committee—the idea that there is all-party agreement that that's how you're going to solve this problem. It strikes me that it's important for all of us as legislators to understand that they've come here, that they've made that, but it just doesn't seem to me that that is the cure. I don't see how that is going to cure it. I take your point that it has been raised, but I don't see that this is the cure.

With all due respect, I can't remember which people around this table said, "Do you know what? That's what we need to do. We really should get the government of Ontario to get some committee, figure out some struc-

ture, and we should do some investigation of past practices.”

How would that actually improve the situation over at Hydro One? Who recommended that? I don’t remember anybody around this table saying that’s what we should do. So if this is going to be in a report out of the blue, whose idea was that?

Mr. Hampton: In fact, I think that was a specific point made by the Society of Energy Professionals.

Mr. Wilkinson: One side—

Mr. Hampton: That’s right.

Mr. Wilkinson: —and we had a discussion about how we were not going to be one-sided in this matter.

Mr. Hampton: I think this is far beyond taking sides. I think there’s a recognition here that there’s a very serious problem. In fact, when our research staff have tried to delve into the issues, what you find is an even more serious problem: The energy professionals who are available, the new graduates from universities who have the degrees and the professional capability, aren’t being offered full-time work at Hydro One. It’s almost as if Hydro One has put up the stop sign itself.

If you want to talk about how that could be worded differently—that the Ministry of Energy be encouraged, or that we recommend the Ministry of Energy look very seriously at the human resources practices or the human resources policies at Hydro One—I could entertain that. But to walk away from this issue, which may very well be the most serious issue not only for Hydro One but for what happens in terms of the delivery of hydroelectricity in the province—what’s the headline today? You don’t have the transmission capacity to hook up existing or soon-to-exist wind generation, never mind other wind generators who bid in and had their contracts accepted.

I think there’s a serious problem here. So if you want to talk about recommending that the Ministry of Energy create a process to look seriously at the human resource issues at Hydro One, I think I could live with that. You don’t want to talk about a committee.

Mr. Wilkinson: That’s my point. If we’re going to work together, what do we agree on? We’ve agreed on—

Mr. Hampton: Can I propose something?

Mr. Wilkinson: If you’d like to, sure.

Mr. Hampton: We recommend that the Minister of Energy establish a process to review the human resource issues at Hydro One on an urgent basis.

Mr. Wilkinson: Okay. So the question is, why is that not looked after by 5?

Mr. Hampton: I would be okay with what is 5 if we hadn’t learned—you saw the detailed questions that we asked Hydro One about how they were managing their human resources. At no time, after hearing that they couldn’t get engineering professionals and there weren’t enough engineering professionals being educated out there and it was very competitive to hire those engineering professionals, did either the board or the management have the openness to say, “You know what? Even if they’re available, we don’t hire them on a full-time basis. We’ll only hire them as temps or on a contract basis.” If

this were ministry staff, I think everybody around this table would have hit the roof.

I’d seriously be looking at a contempt motion. To come here and say, “Oh, there are these human resource issues. But by the way, even if these people are available, we don’t hire them on a full-time basis”—that, to me, is verging on contempt.

The latter recommendation speaks to the board and management at Hydro One, who didn’t have the openness to tell the committee here, when we were asking lots of questions, what the real issues were, which is why you need a recommendation going to the Minister of Energy: “You need to look seriously at this because we did not get open and transparent information from the management and board of Hydro One.”

Mr. Wilkinson: That’s right; I hear you. The question is what we as a committee do about this and who we make the recommendation to.

Mr. Hampton: I think we make the recommendation to the minister. If the minister wants to appoint a task force, if the minister wants to hold a meeting with the board or if the minister says, “We’d better nip this in the bud,” that’s the minister’s discretion. That’s where I think it should ride.

Mr. Wilkinson: And I think that in the recommendation, we shouldn’t presume to tell the minister how to deal with it, but it’s our job to bring it to the attention of the minister through this report.

Mr. Hampton: So we recommend that the minister establish a process to look at the human resource and human resource management issues at Hydro One; I would put “on an urgent basis.”

Mr. Wilkinson: Our job is to flag it for the minister, because we’ve had conflicting testimony. As we all agreed, in one sector it is not a good working relationship. I think it has to do, as we heard, with issues from a previous strike.

Mr. Hampton: I’d say that the behaviour around here is better than what I—

Mr. Wilkinson: If that’s the standard we’re setting—

Mr. Hampton: I don’t want to set the bar too high.

The Chair: Could we come back to looking at the suggestion that is being offered here? We’re suggesting that “the minister” or “the ministry”—

Mr. Hampton: Minister.

Interjections.

Mr. Hampton: The minister is the ministry. Let’s be blunt.

The Chair: Yes. We’re looking at appointing a committee, as it is written here, or just to undertake a review, and the way in which it’s done, then, becomes an internal decision?

Mr. Wilkinson: I think we have agreement that this is an issue that needs to be flagged to the minister, that because of the nature of the testimony we received and the conflicts over there on this issue—I agree with my friend from Kenora–Rainy River that this is something that this committee has an obligation to flag for the min-

ister, though I can assure you, the minister is going to read the report anyway.

1040

We want to highlight this for him, but I don't think it's appropriate for this committee to start recommending that there be some committee without any—just kind of out there. So I disagree with how we're doing it in 4—not that we don't need it. I think we clearly recommend that the minister review that matter. The minister gets to decide how to respond to this. It's not for the committee to tell the minister how to do his or her job, but I think there's all-party agreement that this is a challenge that has been presented to us that needs to be addressed. It's the minister who has, on that part of it, the responsibility. It's not for us to presume how they deal with it.

Mr. Hampton: So what's your suggestion?

Mr. Wilkinson: First of all, I know that in the real world the minister has already read this. But you would like all parties to flag this, and I can see that.

The Chair: Can I suggest, then, that the minister consider undertaking a review?

Mr. Yakabuski: I think Mr. Hampton gave us the wording.

Mr. Hampton: Establish a process. He decides on what the process is. He might want to make a phone call, but—

Mr. Yakabuski: I think it's clear, from the back and forth between the government and the third party—and we all established at the hearings that there is a problem. Everybody recognizes it; all sides recognize it. I think it would be in everyone's best interests to ensure that the minister knows that from the point of view of this committee, we feel something has to be done to address that situation. I share Mr. Wilkinson's position that it's not up to us to tell the minister to appoint a committee, but it is our responsibility to advise the minister that this is something that requires his attention and requires it as soon as possible.

Mr. Hampton: How about this, John: "The committee therefore recommends that the Minister of Energy review the human resource and human resource management issues at Hydro One on an urgent basis" or "on a priority basis"?

Mr. Wilkinson: Yes, I guess—but we really focused in on a particular area that we're really concerned about. Hydro One is vast. If we want the minister to focus on something, let's just make sure that we're telling him where we think the problem is, as opposed to running off on all of this other stuff. The issue is that we think there's a shortage of full-time engineers, and one side is saying, "We need more full-time engineers," and the other side is saying, "We're hiring temps." We're saying, "That's an issue that obviously the two of them can't resolve," and there is an overall public interest in making sure that he's addressing that—

Mr. Yakabuski: So you want that to be more specific to the circumstances surrounding—

Mr. Wilkinson: Without us wading into the issues over there, because they're to run it.

Mr. Yakabuski: Yes, because there are thousands and thousands of employees. Yes, I think that's probably a reasonable clarification.

Mr. Wilkinson: But I don't know enough about the issue as to what area we need to direct him to. Really we want to flag what is already in the record—correct?—and the discussion in Hansard. If it were up to me, I would say to the minister—I'm sure he does this and he has people who do this for him: "You should review the testimony between this group and this group," because I think that's the nub of the problem that we've been discussing.

Mr. Yakabuski: I don't think we just want him to review the testimony; I think we do need some further action.

Mr. Wilkinson: If this committee says, "Of all the testimony, you'd better take a look at that," that's a pretty strong recommendation from this committee, that we say that that needs to be highlighted.

Mr. Yakabuski: Exactly. That's a good starting point, to make it very clear to anybody reading it that we have a problem.

Mr. Wilkinson: Our job is not to prejudge that, but the testimony is compelling enough, which is Mr. Hampton's point, that we shouldn't just gloss that over.

Mr. Yakabuski: Agreed.

The Chair: Mr. Parsons, you had—

Mr. Parsons: I'm going to hold back. We're wording it.

The Chair: All right. Back to Mr. Hampton.

Mr. Hampton: So how about this: "The committee therefore recommends that the minister review the human resource management issues at Hydro One on a priority basis" or "as a priority"?

Mr. Wilkinson: But the issue is around the engineering, though.

Mr. Hampton: We're highlighting that there's a problem. We're not trying to tie the minister's hand. He can narrow the focus; he can broaden the focus. There's a human resource management issue there, and we don't think, based on what we heard, that it's still being well handled, either by the—

Mr. Wilkinson: They're going to resolve it on their own.

Mr. Hampton: No, I don't think so.

Mr. Wilkinson: No, we can't prejudge that. We're just a committee that deals with the testimony that's presented.

Mr. Hampton: It's a fairly general recommendation, okay?

Mr. Wilkinson: I hear you, after we had the question about the subsequent answer on the helicopter use. I'm with you on that.

Mr. Yakabuski: We shouldn't stick forever on this. Regardless of what the recommendation is, the minister is going to determine how far he's going to go with it, so maybe we can get on with it.

The Chair: I would also remind you that if you look at the following recommendation, although it's directed

to Hydro One, it gives very specific areas. As we've already discussed, obviously the minister is going to read the report—

Mr. Yakabuski: Yes, but Mr. Hampton clearly wanted this to go to the minister as well.

The Chair: I'm not suggesting otherwise; I'm just saying that in the context of the next one, you certainly get a sense of the direction that the committee wishes to go in.

Mr. Yakabuski: Yes.

Mr. Wilkinson: So, for example, I would just say, "Hydro One be strongly encouraged and provided with the assistance...." So, who's providing the assistance? Are we saying that the government of Ontario should provide the assistance to Hydro One?

Mr. Hampton: No. You might want to bring in some outside—

Mr. Wilkinson: Right. To me, it should be "Hydro One be strongly encouraged to restore healthy labour relations," though it kind of prejudices the issue, that we don't have healthy relations. I can see that ending up in a subsequent labour-management discussion about how a committee of the government decided that the labour relations weren't healthy. It's not for us to judge that; it's up to us to say that we've had differing opinions.

But to me, we can solve the problem. Recommendation 56 I think carries it, but we just want to make sure that the minister sees that there's one particular area that we're particularly concerned about with Hydro One in regard to a potential or an actual shortage of engineers and that there is a management-labour problem there that has significance for the province of Ontario.

To me the logic of it is that overall, not all labour relations are good: "You need to focus on this and, specifically, we need you to focus on this area, or we would recommend that you focus on this area." To me, that's 56, as long as we get out of this question of who's providing it. I don't think we should go down there, right?

Mr. Hampton: So 45?

Mr. Wilkinson: I would say—I don't know whether we should go with "restore healthy labour." I don't know historically whether they ever had good labour relationships over there. It's just if we want to maintain it or encourage it as opposed to restore it. "Restore it" is prejudicial. It starts with the idea that it's accepted that at one time it was good.

Mr. Hampton: "Encourage to promote."

Mr. Wilkinson: Yes. "We strongly encourage to promote healthy labour relations and to improve employee morale at the organization so that management employees can focus to the business of planning and carrying out the safe and efficient delivery of electricity to the public," and as a separate recommendation subsequently, this whole issue of making sure that the minister sees the area of greatest concern.

Mr. Hampton: I would even propose a minor amendment to that: "The committee therefore recommends that the minister review the human resource management

issues at Hydro One." That's it. He can decide if it's a priority or not.

Mr. Wilkinson: But we shouldn't flag it down to where we think the problems are.

Mr. Hampton: No.

Mr. Wilkinson: That's not the testimony that we got.

Mr. Hampton: Let the minister decide that. I'm not here to tie the minister's hands. I'm just saying, "We're trying to save you a headache, Minister, in terms of what might happen to the transmission system."

Mr. Yakabuski: I think the testimony is clear in itself to direct him possibly to where the—

Mr. Wilkinson: Well, yes, to make his decision. Agreed. So I would say that we strike 45, that we amend 56 so that we're flagging this, and that we go with what you said as the next point, because logically it follows from that.

Mr. Hampton: So reverse the order.

Mr. Wilkinson: I've reversed the order. I don't think 45 is right. I think that 56 has to be stated first. I've suggested how we don't add prejudice with words like "restore," because it goes to the issue, or that they "return." We stay out of it.

1050

Mr. Hampton: So the new 45 would be the existing 56. "The committee therefore recommends that:

"Hydro One be strongly encouraged to promote healthy labour relations and to improve employee morale at the organization so that management and employees can focus on"—

Mr. Wilkinson: —"the business of planning"—

Mr. Hampton: —"and carrying out the safe and efficient delivery of electricity to the public."

The new 56 would be, "The committee therefore recommends that:

"The minister review human resource management issues at Hydro One."

Mr. Wilkinson: Period.

Mr. Hampton: Period.

Mr. Wilkinson: Agreed.

The Chair: Ready to move on. Thank you very much.

Let's look, then, at page 15. We're only looking at editing changes. "Helicopter use": The recommendation there I think reflects the very long discussion we had and the agreement we reached last time, which is maintaining a log listing the names of all individuals using Hydro One helicopters and the purpose of the trip.

All right, looking at the next section, "Service Delivery Issues": again, relatively minor additions there. Ms. Hull, is there any comment you wish to make on the delivery issues?

Ms. Hull: I will actually pass this over to Mr. Johnston now because he's responsible for the remaining sections.

The Chair: Thank you.

Mr. Larry Johnston: The change in this section was as the committee had suggested: to remove a portion of the recommendation and put that at the end of the paragraph that begins, "The EDA spoke to the committee...."

The Chair: Any comments on page 16?

Mr. Hampton: So on recommendation 89 we agreed: "The committee therefore recommends that:

"Hydro One make significant capital investments to expand its system capabilities and that these not be deferred but be recognized and built into future plans."

I guess there are some grammatical changes.

"The committee therefore recommends that:

"Hydro One make significant capital investments to expand its system capabilities and that these not be deferred but be recognized and built into future plans."

That would be the recommendation—the results? No?

Mr. Johnston: No. I thought as it stood: "The committee recommends that:

"Hydro One's need to make significant capital investments to expand its system capabilities not be deferred, but recognized and built into future plans."

Mr. Hampton: Okay.

The Chair: Can I suggest that you might want to consider including the word "should" before "not be deferred" to clarify the meaning of the sentence?

Mr. Yakabuski: No, because "should" is not as direct as "not be deferred."

The Chair: Okay. I just throw that out.

Mr. Yakabuski: "Should" gives far more options. "Should" is not "must."

The Chair: Okay. We'll leave it as it is.

Mr. Parsons: I don't understand recommendation 9 on that page. "Hydro One outline to the committee": To what committee?

The Chair: Reporting back to us, as I interpret it.

Mr. Parsons: Okay. Maybe I'm wrong. My understanding was that once we table this with the Legislature—

The Chair: No, we would ask them to report back to us.

Mr. Parsons: Okay.

Mr. Yakabuski: There are a number of recommendations that ask them to report back to us.

Mr. Parsons: Not to the Minister of Energy but back to us. Okay.

The Chair: It would also go to the Minister of Energy, but the report and the recommendations would go to Hydro One, and the expectation is that they will respond to us.

Mr. Parsons: When they respond to us, what do we then do with that information?

The Chair: It's up to the committee. You can simply receive it as information. The committee has the power to ask them to come back again.

Mr. Parsons: But if we receive the information, are we then going to do another report?

The Chair: That would depend entirely on the wish of the committee.

Mr. Parsons: Okay.

The Chair: Any further comments? Can we look, then, at page 17? Here you will see that these reflect the text of the association's suggestions. Maybe, Mr. Johnston, you'd like to just comment on that section.

Mr. Johnston: The committee expressed its wish that the two recommendations be moved into the body of the report because they were suggestions made by the association and that it simply reflect that and not be recommendations of the committee.

The Chair: Thank you. Any other comments? Then we could look at page 18. This section deals with the conservation initiatives.

Mr. Yakabuski: Were we satisfied with the bottom of page 17, the recommendation? I don't think we—

The Chair: The reason I didn't raise it was simply that the only change was the number.

Mr. Yakabuski: Okay, very good. Thank you.

Mr. Johnston: Mr. Yakabuski is right. That recommendation has not actually been approved by the committee. The committee was told that there was further information in terms of a clarification issued by Hydro One on this issue. That clarification has not been received by the committee, and therefore the recommendation has been kept in its original form, but the committee itself has not given approval to it.

Mr. Wilkinson: Again, back to the point about the committee telling the ministry what to do with OEB while we're writing a report on Hydro One, we've been very clear that we're taking the information. If it's a recommendation to Hydro One, we provide it to Hydro One. If there's information that has come up that we're concerned about, we make sure it's in the report, so that it's in the public document coming out of this all-party committee.

The Chair: Just to clarify—I shouldn't use that word—it asks here, consistent with the text above, with regard to the fact that there seemed to be two avenues of directives. So what we're asking in this recommendation is that the ministry clarify its directive. In other words, we're not asking them to change anything or do anything but simply to provide information. Does that help to answer your question?

Mr. Wilkinson: It goes to the issue raised by Mr. Johnston, because the information I had is that this issue was moot because there had been clarity provided by the ministry or the OEB on this matter, and then you had asked me about that, if I remember correctly. This is the issue, then, Larry, the one that you said we need—

Mr. Johnston: This is the issue. My understanding was that you told the committee you would undertake to bring some documentation or clarification on this—

Mr. Wilkinson: And you still don't have that?

Mr. Johnston: We still don't have that.

Mr. Wilkinson: Oh, okay. That's the issue, then, that you don't have that information yet. I don't know whether we can make the recommendation to the ministry on this as part of our recommendations to Hydro One. They're going to say, "This is our report. What's this about?" Okay, I will attempt to get some clarity for you. If we can revisit this issue—

Mr. Hampton: Look, if it bothers you, that recommendation can simply be reworded and not put in as a recommendation: that the EDA, or the LDCs—I'm not

sure which one it is—continues to ask that the Ministry of Energy clarify its directive.

Mr. Yakabuski: And we're not making a recommendation.

Mr. Hampton: And we're not making a recommendation. It's an outstanding issue. They're simply asking, "What's the directive, so we can know what's happening?"

Mr. Wilkinson: There seems to be, obviously, some question about whether or not that directive is getting communicated to all parties, including ours. So that's fine. It just doesn't strike me as where the recommendation—I have no problem with this if it's an outstanding issue.

Mr. Yakabuski: Based on this report, the minister is going to look at this report, and where he thinks there are weaknesses, he may, on his own—his or her own, depending on who is the minister at the time—decide to go to Hydro One and say, "Look, these things will have to be clarified," or to the OEB or wherever.

1100

Mr. Hampton: Or we may use the issue as a question in question period.

Mr. Wilkinson: That's right, you do ask questions.

Mr. Hampton: We do, yes. We hardly ever get answers.

Mr. Yakabuski: Well, I was going to say, "What clarification would that bring, asking it in question period?"

Mr. Wilkinson: But I just don't see it as a recommendation. I agree it's an outstanding issue.

Mr. Yakabuski: I agree, so maybe we could just do as Mr. Hampton said and build it into the text as part of the recommendation from the LDCs.

The Chair: Then would you agree that it would be identified as simply an outstanding issue?

Mr. Yakabuski: Yes.

Mr. Wilkinson: I think it is. If research says they don't have the answer yet, then it's—

The Chair:—it's an outstanding issue.

Are we ready to move on, then? Looking at page 18, this deals with the conservation initiatives. There is a rewording of the recommendation that is there. Yes, Mr. Milloy.

Mr. Milloy: Before the recommendation—I think this may have been raised. I apologize, I missed one of the meetings that looked at this. You have, "Hydro One has spent \$8 million in the first seven months of 2006, and will spend the remaining \$32 million...." and then it says, "An expenditure of \$8 million to save the electricity to run 700 homes is the equivalent of \$11,428.57 per home (compared to an average residential electricity cost of around \$500)." That final bullet makes absolutely no sense. I mean, that \$8 million is being invested for those 700 homes for 25 to 30 years. My understanding is that \$500 is what would be spent in one year. As I said, I think this may have been raised before, that whole bullet statistically doesn't make any sense. It's comparing apples and oranges.

Mr. Johnston: That may be so, but the bullet simply reflects what the committee was told. The quote is there in the preceding paragraph, where officials indicated that 8 million kilowatt hours has been saved, "about enough for 700 homes for one year, so we're off to a very good start." That's what the committee was told. Whether that makes sense is exactly what the bullet is asking, and that's why the recommendation continues by asking Hydro One to clarify its metrics and its evaluation techniques for its conservation programs. I agree that the statistics don't seem to make much sense, but that's what the committee was told.

The Chair: Mr. Milloy.

Mr. Milloy: Who said the average residential electricity costs around \$500?

Mr. Johnston: That figure is probably a calculation.

Mr. Milloy: Exactly. I just have trouble with the fact that we're sort of doing math on—

Mr. Johnston: I think that's probably the most reliable aspect of that bullet point.

Mr. Wilkinson: My business background shows that you have costs that end up being front-end loaded. So to allocate at the beginning of a process and extrapolate that math is crazy. That is, to me, invalid, unless you understood how that cost was going to be allocated over that period of time. You'll always have more—if you stop after doing one thing in a process and then extrapolate that cost over all houses, that would be invalid. Our question is: Can you actually get the result with the money that you said you have? I think the issue is: Can you end up with 100,000 homes for \$8 million? Well, you can't stop at the beginning of the process. If you take all of your front-end cost and throw it on the first house and then extrapolate that math, it's not going to work out. So it might be a question of clarity, but it seems to be specious mathematics. I wouldn't buy that around my board table.

Mr. Hampton: So you're objecting to the last bullet point?

Mr. Wilkinson: My point is that what we've heard is their testimony, and it raises questions about the transparency of the metrics so that a bunch of people like us, who are not experts on electricity, can understand it, because they've given us an answer which, on first blush, doesn't make sense to us. But rather than saying, "Let's have a long discussion about the symptom," our issue in this committee is the problem, in the sense that you're not able to come and give us metrics that we, as legislators, and obviously, the public can understand. That's what the body of the recommendation is all about, right, that we want to get to the metrics?

Mr. Yakabuski: That's why we're asking in our recommendation, John, for that information. Because nobody questioned Hydro One in committee at the time, and government members had the same options to question them, they accepted the information as was given. This is what it works out to be, so it does raise questions for all of us.

If you want to read between the lines, I think there are things in every body of the report that would leave someone to have to do some digging or some calculating on their own. I think we all accept that any kind of program is going to be front-end loaded and the payback—I mean, if you buy a new furnace for your house, you're not going to save money the first year if you paid for the furnace in the first year. We all accept that. That's why we're asking Hydro One to clarify with us the way that they do calculate the effectiveness of those programs.

Mr. Wilkinson: And the recommendation, as well, of the Environmental Commissioner, who also came in here, as you would see in the second last paragraph, and said, "I think they're off to a good start, but I'm a little short on mechanisms, a metric to measure success." If you want to set a goal and succeed, you have to be able to measure it. I think all around the table agree to that. So it just seems to me that in the three bullet points—"Considering these figures in more detail reveals that"—we, as a committee, are wading into our own analysis of that.

I don't think it should be there at all. I think we have clear testimony from Mr. Parkinson. He seems to think that it's working, and he gave us data, but the Environmental Commissioner says, "Well, I think they're off to a good start, but I can't measure this." So then we do recommendation 114. We need to see those. To me, that's the purview of this committee.

Mr. Yakabuski: So what are you asking for? The third bullet of the—

Mr. Wilkinson: No, I would just take all three out. I just don't think that we should be wading into, "Okay, we don't understand their math, so we'll come up with our own kind of crazy math." It just doesn't seem to make any sense to me. The issue is, Parkinson says one thing, Gord Miller says, "I think they're right, but I can't measure it," and we say, "You know what? You need to have metrics, because the stuff that has come in here we can't figure out either, so let's get some metrics."

Mr. Yakabuski: The bullets give us a justification for asking the question. We need some clarification, because on first blush, you say to yourself, "Boy, that doesn't sound right or doesn't sound very good, so give us the full information."

Mr. Wilkinson: If one doesn't understand that some costs reasonably could be front-end loaded—I don't think we should get into the mathematics games. I think, as a committee, we're realizing that there's no one who can answer that question, because there aren't agreed-upon metrics to measure success. That's what we should tell them. Professionally, putting my name on something where we say, "We didn't agree with their math, so here's our crazy math"—I could come up with 16 different ways to calculate that, and I don't think we should go there. Just go with the strength of the report. Because we're putting in the public record that that's how we think it's happening. I don't know that.

Mr. Yakabuski: So you're insisting that it be struck from the report?

Mr. Wilkinson: I don't agree to put something that I think is—

Mr. Yakabuski: Do you want to make a motion to that? Because we're going to sit here all day dealing with these points. If you want to make a motion to that, we'll entertain the motion.

The Chair: I think we do need to have a couple more comments. Mr. Hampton, I had recognized—

Mr. Wilkinson: If you want to explain to me how I'm wrong, I'm more than happy to entertain that.

Mr. Hampton: This is just a fairly simple calculation. Going back over 19 years, it's not the first time that Hydro One has been criticized for what amount to superficial energy conservation or energy efficiency schemes. Historically, they've often come forward and made grandiose statements and then, when you look at the numbers after the fact, you go, "Boy, there was a lot of money spent here and not much happened."

If you want to take out the last bullet point because it sounds like a conclusion, I'd have no problem with that, but I think there is a real issue. The first 20% of the conservation budget has resulted in less than 1% of the target being achieved: "\$8 million has saved enough electricity for 700 homes, leaving \$32 million to realize the remaining target of 99,300 homes." And then rather than have the third bullet point, just have another sentence that says, "This raises questions as to the effectiveness. This was echoed by the Ontario Environmental Commissioner, who observed that it seemed to consist of well-intentioned, positive plans, but a little short on mechanisms." So we're not drawing a hard and fast conclusion.

1110

If you've spent 20% of the budget and you've only achieved less than 1% of the target, and you now have \$32 million left and you have to achieve the target of 99,300 homes, at first blush, it looks like there's something wrong there. So I'd argue, leave the first two bullet points in, because they simply raise the question, and then move on to the Environmental Commissioner's comments and make our comment.

Mr. Wilkinson: And I'm okay, because it's the last point that I think is just way off.

Mr. Yakabuski: As I said, I'd be willing to take the third one out.

Mr. Wilkinson: Yes, take the third one out, and I wouldn't add in this other business. I would just let the record show—

Mr. Yakabuski: I can live with taking that out, as I recommended 10 minutes ago. If you want to remove the third bullet, I can live with that.

The Chair: All right, members, we've come to an agreement.

Mr. Wilkinson: Are we agreed then, Howard? We'll just take the third bullet out.

Mr. Hampton: Yes.

The Chair: We're taking the third one out, and we'll move on to comments on the recommendation itself: "Hydro One report back to the committee on its con-

servation initiatives and on the evaluation and measurement techniques used to determine their cost effectiveness.”

Mr. Yakabuski: I think that’s good.

The Chair: Any comments? Okay.

Let’s look at the load-shifting section. Mr. Johnston.

Mr. Johnston: Again, at the committee’s request, what was recommendation 15 has been put into the body of the text to conclude that first paragraph.

The Chair: Any comments? At the bottom of page 19, then, there are just slight grammatical changes.

If we turn to page 20, looking at soft versus hard grids and the recommendation: “Report back on the potential to develop distributed energy options and on the costs associated with those activities.” Okay?

At the bottom of page 20, again, a minor wording change: “Hydro One work with the Ontario Energy Board to examine the feasibility and expense of recovering the cost of upgrades....”

Mr. Hampton: Can I ask a question?

The Chair: Certainly.

Mr. Hampton: Not being an accountant, what’s the difference between “cost” and “expense”?

Mr. Wilkinson: I’d leave that up to the accounting profession to answer that one.

Mr. Hampton: I just think it should be “the feasibility and cost”—sorry; I see. That’s fine: “The feasibility and expense of recovering the cost of upgrades....” I’ve got you. I understand why.

Mr. Wilkinson: They have an expense and we have a cost-recovery.

Mr. Hampton: Yes.

Mr. Yakabuski: It’s that red writing, Howard. It clashes with our inner selves.

Mr. Wilkinson: We’ll have to go with purple or something like that.

The Chair: Turning to page 21, again, the recommendation: “Hydro One consider ways of streamlining the processing of requests related to the standard offer program and examine the feasibility and cost of adding more resources for the processing of standard offer requests.” I think this is quite consistent with the text and with the direction of the committee.

At the bottom of page 21, the agricultural community: “Hydro One provide a 1-800 line for farmers and rural residents to connect with service representatives who are familiar with farm and rural electricity issues.” Again, I think that’s directly from the comments that—

Mr. Yakabuski: Can you still get a 1-800 number, or are they all different now?

The Chair: Fortunately, that’s outside the purview of the committee, Mr. Yakabuski.

Mr. Wilkinson: It’s a federal matter.

Mr. Yakabuski: Pick up the phone. I’m surprised you didn’t tell us: “Just pick up the phone.”

The Chair: Page 22, again, very minor changes there, and that takes us to the very end, which is the list of recommendations, which obviously have to be edited to

reflect those changes that we’ve made in our discussions today.

Now, I would like just to have a couple of comments made with regard to this report and its changes, whether you wish it to come before the full committee or whether you want a signoff by the subcommittee. Could I just ask for some brief comments on that?

Mr. Hampton: I thought there was fair unanimity now in terms of—

Mr. Wilkinson: In a sense, we have 45 minutes, and there are not a lot of changes that have to be made. I’d be more than happy to suggest a 30-minute break, and that we come back in 15 minutes and just make sure that what is reflected is exactly what we agreed to, so all three parties agree and we move forward, if you want to do it that way. The question is whether or not we end up, if we close right now—can we get them to come back? Is that what you’re saying? Do you guys want to see our discussions to make sure that it’s what we’ve agreed to?

The Chair: The issue is whether or not you want to leave it to your subcommittee to sign off on it or whether you want it brought back to the committee. That’s the question.

Mr. Wilkinson: I leave that to my subcommittee, Chair.

The Chair: I’m just looking for direction on that.

Mr. Yakabuski: Joe, you can deal with this at subcommittee? So all we’re doing is making the changes that we’ve made today, and there’ll be no further discussion, correct?

The Chair: Yes.

Mr. Yakabuski: We’ve clarified the changes made and accept that they reflect what the committee asked for, and we sign off on it, correct? That’s what we’re doing?

The Chair: Yes. All I’m asking is direction on whether you want it to go to your subcommittee or whether you want it brought back to the full committee.

Mr. Hampton: Just so I’m clear, all the members who are here today would get a copy of the changes, we could talk with our member on the subcommittee, and then subcommittee members would be able to say yea or nay.

The Chair: Exactly.

Mr. Hampton: I’d be fine with that.

The Chair: Okay? Thank you.

Mr. Yakabuski: If the subcommittee member came back and said, “You know what? This is not what”—

The Chair: If you don’t sign off on it, then it comes back here.

Mr. Yakabuski: Okay. That’s fine, then. I think that’s perfect.

The Chair: I would like to put the following questions to you: Shall the draft report on Hydro One, as amended, be adopted? And obviously the direction, then, on checking the final changes would come from the subcommittee. All those in favour? All those opposed? Thank you very much.

Shall the final report be translated and printed? All those in favour? Opposed? Carried.

Upon receipt of the printed report, shall the Chair present the committee’s report on Hydro One to the

House and move the adoption of its recommendations? All in favour? Thank you very much.

That concludes this part of our meeting, the part on Hydro One.

1120

ONTARIO LOTTERY AND GAMING CORP.

The Chair: We'll move now to the Ontario Lottery and Gaming Corp., if I could ask you to turn to draft 3. We're looking at the first page with the contents and the changes that reflect the direction of the committee. I'll ask Mr. Johnston to comment. We're looking at pages 2 to 5.

Mr. Johnston: If you'll note in the table of contents, there have been two structural changes to the report. There are now two appendices. Appendix A is "Other Issues" on which the committee did not make any recommendations. My sense was that the committee had agreed to put those as an appendix.

Appendix B is the original background information on the Lottery and Gaming Corp. You will see there is now a much shortened or abridged overview to begin the report, but in order not to lose the information that was in the original background, the text has been included as Appendix B.

The Chair: Ms. DiNovo.

Ms. Cheri DiNovo (Parkdale-High Park): Just an overarching question, and I'm amazed this didn't come up before: Most of this report has dealt with the gaming part of the Ontario Lottery and Gaming Corp., but the lottery part of the Ontario Lottery and Gaming Corp. has of course come under serious review recently, in light of the allegations about vendors and vendor misconduct. I bow to your wisdom here, and this of course wouldn't have come out in the hearings this committee held, but I wonder if we should make some mention of being at least aware of that in this report. You could read this report and think everything's wonderful at the Ontario Lottery and Gaming Corp., when in fact we know it's not and that there's a review ongoing. Again, I know this is late in the game, but I wonder if there's something we should be saying.

Ms. Monique M. Smith (Nipissing): My understanding is that these reviews are based on the time when we did the review, which was September. Our report is based on the testimony we heard in September, so it would be out of sync with what our report is based on to comment on stuff that's going on now.

Ms. DiNovo: So this is a snapshot.

Ms. Smith: Yes.

Ms. DiNovo: It just seems that in light of what has happened it's a rather dated snapshot already. Again, I'm not asking us to necessarily rewrite anything here, but maybe there could at least be some statement to the effect that we didn't deal with that because it wasn't presented before us, or even a statement to the effect that this is a snapshot based on the hearings and does not reflect later allegations or later reviews or developments.

Mr. Wilkinson: It's an interesting point that we had an agency review and not a single person came to this committee and flagged that there was a potential problem on vendors.

The Chair: Mr. Tascona.

Mr. Tascona: I think Ms. DiNovo's point is well taken. What is occurring right now is a matter of the public record. What we have here in the report at the moment is an introduction, apart from the fact that we did conduct some hearings with respect to this particular matter. I don't think she's asking for too much to properly reflect the public record in terms of the current status of the OLG, as opposed to what was part of the public hearings which, unfortunately, in terms of a snapshot in time, would have been a much different type of hearing had we chosen not to have it at that particular time.

Quite frankly, in terms of the very loose nature of the subcommittee minutes, I don't see why, if there was the will on this committee to bring back the OLG to go into this matter to make this a much more meaningful and relevant report—because for us to ignore the public record and say we were just doing this as a snapshot in time when there are some serious issues confronting the OLG in terms of public trust, in terms of the handling of these situations which are ongoing, not only dealing with the first part, which was dealing with an individual who felt that he was entitled to something and then became the target of litigation, as opposed to what we're dealing with now on issues of security in terms of what's happening in the particular stores—what Ms. DiNovo is asking is almost like a grain of rice in terms of what we really should be dealing with here, which is getting the whole bag back and reconducting the hearings. And I would be open to that.

If we're going to quibble over that, I'd even just bring a full motion in terms of bringing them back, and let's deal with this in a proper way so that this committee can actually do its job. We called this group, to be quite honest. It was brought by the opposition party that we wanted this group here. The timing of it was obviously subject to what it is. The fact of the matter is, we're about to close off on a report when we know there are other things that are going on that are much more serious than what we were dealing with at the time.

That's my view on this. If it needs a formal motion, I'd be requesting that they come back to deal with what is obviously a matter of public trust, which the minister who's responsible for this had to get involved in, and probably continues to be involved in in terms of dealing with this. What we're seeing on the public record is that the spokesperson seems to be refusing to even comment publicly to media inquiries on this particular issue.

I know the Liberals are going to shut this down today, based on that request. But quite frankly, I would move a motion that we ask these people to come back. I don't really care about the timing of this report. The fact is, the subcommittee minutes do not preclude this in any way, for us to do our job in an effective manner.

I would move a motion that they be brought back to deal with the issues that are out on the public record right now, which are not, you know, a huge impact on the public trust, but I think people want some answers. Heck, if we can't get answers as a standing committee of the Legislature, who do these people answer to? So that's what I would move, and that's on the floor.

The Chair: All right. Thank you. We have a motion on the floor. Ms. DiNovo.

Ms. DiNovo: Just further to the point I raised, of course we do know there is more than one individual. There are hundreds of cases that have come to the Ombudsman's attention. I hear my colleague Mr. Wilkinson. I wasn't present at the hearings, but understandably, it didn't arise there. A lot of this came as a result of investigative research. The CBC came post-hearing.

I'm concerned, as is my colleague, that we're going to sign off on a document that makes us look as if we're completely in the dark about the most recent developments with this particular corporation. Although I'm open to discussion around this motion in terms of whether I support it or not, certainly I wouldn't want to let this report go out like it is without some covering letter or something saying that since the development of this report, these new findings have come to light. There's clearly a huge issue here.

But absolutely, if it's feasible, maybe we should reopen it and have this be a forum. Because again, Madam Chair, I'm very aware that we're representing the electorate here. Are we really willing to go back to our own ridings and say we signed off on this report? Many in our own ridings may be the ones whose cases are now before the Ombudsman. They may be the ones who are concerned about the operation of Ontario Lottery and Gaming Corp. So I would want to answer my own electorate, and I'm sure other members here wouldn't want to go back to their own electorate either with full conscience and say, "You know, I signed off on this report and everything's fine," without some mitigating letter or something.

The Chair: Thank you. Ms. Smith.

1130

Ms. Smith: I find it interesting that Mr. Tascona is willing to come back and start the hearings all over again when on Hydro One he wasn't willing to give the time for another round on draft 3. It's an interesting interpretation of the subcommittee report and his adherence to the timing thereof.

We will not be agreeing to revisit this. As always, the standing committee does its hearings at a moment in time. Things change. If it would please Ms. DiNovo and her concerns, we could, in the appendices under "Other Issues," note that after the hearings had been completed, concerns were raised about the on-site ticket sales and that investigations have been undertaken by the Ombudsman, by an independent auditor and by the Chair and that those reports have not yet been tabled—something to that effect, to show that we recognize that those issues have been raised, that they are being investigated, so we're not, as you said, looking blind that things are

going on around us. So we would be willing to concede to that kind of amendment in the appendices under "Other Issues."

Mr. Parsons: I think, if I'm recalling right, we dealt with this principle at the meeting last week, with, do we modify the report after to reflect the unfortunate death of a board member? The three parties were in total agreement that this was a snapshot in time taken that day of that meeting. I think we need to stick to that principle. This is not a standing committee in the sense of reviewing that agency; we were empowered to review it. I say that knowing that this is not to overlook the issues that have come forth subsequently but, quite frankly, as has been mentioned, I have every faith in the Office of the Ombudsman. He's going to review it. This report must reflect the information we heard the day that we held the review.

Ms. DiNovo: In light of that—and I've been persuaded by Mr. Tascona as well—I don't want to see this just as an appendix item. The very least that I would be satisfied with would be some kind of letter that goes out or the covering or the first page that brings us right up front and centre, but I'm willing to support his amendment. Just to go on record with that because, again, I think it would be remiss to our electorate, it would be remiss to all of those people who have had some problems, to not note this and to not note this in Hansard and to not note the vote as well.

The Chair: All right. Any further comments? I think perhaps you mean the motion as opposed to the amendment.

Ms. DiNovo: Sorry. The motion, yes.

The Chair: Just as a point of clarification. All right, any further comments? I'll call for the—

Mr. Tascona: For the record, Madam Chair, just state what the motion is.

The Chair: Yes. Mr. Tascona has moved a motion that the committee ask the OLGC to come back and appear before the committee.

Mr. Tascona: To deal with the issues that have been reported in the media, in particular the CBC, involving matters of public trust in the OLG and its operations.

The Clerk of the Committee: Mr. Tascona moved that the committee ask the Ontario Lottery and Gaming Corp. to come back and appear before the committee to deal with issues reported in the media and the CBC on matters of public trust in its operation.

The Chair: All right, that is the motion that we have on the floor. All those in favour?

Mr. Tascona: Recorded vote.

The Chair: Recorded vote? Yes.

Ayes

DiNovo, Scott, Tascona.

Nays

Gravelle, Milloy, Parsons, Smith, Wilkinson.

The Chair: I declare the motion lost.

Ms. DiNovo: Then might I propose another motion—the motion to have either a covering letter or first page that outlines our concerns, that states that this was a snapshot in history and that these allegations have come to light since we developed this report and since the hearings. Something to that effect would need to be drafted, but that a covering letter deal with these concerns, or a first page.

The Chair: I'll ask Mr. Johnston to speak to that.

Mr. Johnston: I just want to draw the committee members' attention to the introduction. The second paragraph of the introduction says, "In accordance with its terms of reference, the committee reviewed the Ontario Lottery and Gaming Corp. on 6 September 2006." It could be stressed by adding an additional sentence to say that this report does not deal with any events that have transpired since that date.

Ms. DiNovo: I would want more specificity, in that I would want to talk about the allegations, talk about the review, talk about the Ombudsman's ongoing work. I'd want more than just a sentence, that's all, if that's okay with Mr. Johnston.

Mr. Johnston: It's not my decision.

Ms. DiNovo: But I would want something fairly substantial that draws the electorate's attention to the fact that we're doing our job here and we're not dropping the ball.

Mr. Wilkinson: We're also stating that, beyond this committee, there are a number of things that are going on, as elicited by my friend from North Bay. The Ombudsman is investigating, I think appropriately, and I agree with Mr. Parsons: I have every confidence that his office will do a fine job. My understanding is that there are two other reviews going on on what we all agree are very serious allegations. But, at the moment, they're allegations, and it's not for us as legislators to wade into issues of allegations.

I agree that in the covering letter it state specifically the time. I understand your kind of electoral concern as somehow—because I do note that this issue was not raised by anyone who came to this review, so all kudos to the media for ferreting this story out. But we have to let the chips fall where they may, not this committee. It has to be done, and there is work being done by the Ombudsman, who's an officer of this Legislature—there's a reason that he's arm's length—to look into this.

Ms. DiNovo: Again, though, it's an ethical concern, it's a moral concern and it's a concern of transparency and accountability. I think that we all around this table would want to be seen as being aware, not unaware, of what's happening, especially around and with a corporation that we've been called upon to review. So I would like to see that stated, that we are aware of what's going on, we're aware of allegations, and we're doing this on behalf of the consumers of this corporation, and that we're aware that the Ombudsman is conducting a review.

Again, asking for a paragraph, if not a letter, that deals with that and that deals with that right upfront, so that

people don't think—because, right now, "In accordance with its terms of reference, the committee reviewed the Ontario Lottery and Gaming Corp. on 6 September 2006" doesn't say to me that this committee is aware of the allegations, that we take them seriously, that we're aware that there's a review going on. It doesn't say that, and also, it doesn't address directly the fact that this report is a snapshot from September 6 and therefore we didn't have a chance to look into those allegations. I'd want that on the record and want it in this report.

The Chair: I take from what you're suggesting that acting on your suggestion would mean that we would expand the second paragraph to indicate that the committee is aware of these ongoing issues but is not in a position to comment. Does that reflect—

Mr. Parsons: Was that a motion?

Ms. DiNovo: I did make a motion, actually, that there be a letter or a page, something substantial, that is included in this report to that effect. Mr. Johnston has suggested another paragraph. I'm uneasy with that. I'd like to stick with my original motion: that we have something substantial and something separate that describes the function of this committee and describes our concerns about that.

The Chair: We have a motion, then.

1140

Mr. Wilkinson: With all due respect to the member, I can understand your sensitivity, but let us not undermine the good work of the Ombudsman, who is an officer of this Legislature, who has decided independently, because he's an independent officer, to investigate this. I would not want to send out any message that we are presuming that he and his office will not do, as they always do, a very thorough job on this matter. That is the reflection of the role of the Legislature currently. We should not presume in any way—if you want to mention it, I'm okay with that as long as we're saying that an officer of this Legislature is doing an investigation which is appropriate.

Mr. Tascona: That's a bit rich in terms of the Liberal government's faith in the Ombudsman. I would say this: that Ms. DiNovo was not an elected member of this Legislature at the time we were dealing with this. To be fair to her and to put this in context in terms of her wishes is more fair.

We are the standing committee. Are we basically meaningless in terms of what our job is? It would appear that this committee, the majority at least, feels that we don't have a role to play. Certainly, the Ombudsman has a function to play in terms of dealing with complaints from the public. He's an officer of the Legislature, but so are we. We're creatures of the Legislature. We have a role to play. The mandate of this committee was to review, among other things, the operations of the OLG. The Liberal majority has already defeated a motion to bring them back so we can deal with these public issues, and they've refused that today.

Now, Ms. DiNovo, who was not a member of the Legislature, has raised some issues that she thinks are

important. I think it should be part of the public record if this committee is going to be relevant and also meaningful. So I don't share what the government is saying with respect to this issue, and I think we have to be as candid and transparent as we possibly can be with respect to this; if we're not, then maybe this report is not going to get unanimous approval, maybe there's going to be dissent, and strong dissent, on this particular matter. Government members should consider that seriously.

Ms. Smith: I think if we look back at the sub-committee report, the decision was made that we would review the Ontario Lottery and Gaming Corp. on September 6. That's what this committee has done, that is what this report is reflecting and I think we should call the question on this motion.

The Chair: If there's no further discussion—yes, Ms. DiNovo?

Ms. DiNovo: Just for the record, the New Democratic Party, of course, has full faith in the Ombudsman. We're delighted with the Ombudsman's work so far. In fact, it's out of that faith in the Ombudsman that I would like that work recognized in this report. That's what I'm asking for in this letter or covering page: to highlight the fact that the Ombudsman is investigating this, that there have been concerns raised since the writing of this report, since the hearings happened, and that the Ombudsman is looking into that. That's all I'm asking for. I think it's a pretty small request. It highlights the fact that, again, this is a snapshot, as has been pointed out and I think rightly so, but also that there are ongoing issues and that we are aware of them, that we're doing our job, that we're representing the public here in dealing with this corporation that's supposedly acting on their behalf. So, again, I stand by the motion.

The Chair: Any further comments before I call for the motion?

Mr. Parsons: Call the vote.

The Chair: Yes. Will I have the motion read first?

The Clerk of the Committee: Ms. DiNovo moves that the report on the Ontario Lottery and Gaming Corp. contain a covering letter at the outset or in the first paragraph in the introduction of the report dealing with the issues reported in the media relating to the matter of public trust with the operation of the Ontario Lottery and Gaming Corp.

Ms. DiNovo: Could I have a recorded vote?

Ayes

DiNovo, Scott, Tascona.

Nays

Gravelle, Milloy, Parsons, Smith, Wilkinson.

The Chair: I declare the motion lost.

Further comment? Let us move on, then. We're looking at the first five pages, I believe. Mr. Johnston, we were just looking at those.

Mr. Johnston: On pages 2 through the middle of page 5, I have provided a three-and-a-half-page overview of the OLGC for the members to consider, as an abridgement of the original lengthy overview.

The Chair: Any comments? All right. Moving on, page 8 is the next change, and this is simply a rewording of the text, a textual change.

Ms. Smith: Chair, back on page 7, this is just a semantics thing, but at the top of the page, the first paragraph, "The corporation indicated it will expense between \$4 million and \$6 million on the rebranding...." To me, "expense" sounds like they're charging it to somebody else. I just wonder if there isn't a change of a word. Whatever they told us in their testimony, it was like they were absorbing the cost in their operating expenses of that year, something like that. I don't have the actual, and maybe that's what "expense" means, but to me, it sounds like they're charging it to somebody else, and I just wanted to be clear that it's part of their operating costs for the year.

The Chair: Any other comment?

Ms. Laurie Scott (Haliburton–Victoria–Brock): I don't know if research can take a moment. Are you just clarifying what was—

Mr. Johnston: I'm trying to find the Hansard, because it's my suspicion that that's the wording they used.

Ms. Scott: If that's the wording they used, then that's okay? Yes, if we can just doublecheck that.

Ms. Smith: Back on page 8, I think it's just a typo, "currently standing referred to the standing committee." I think it's just "currently referred to the standing committee." I just don't think the word "standing" needs to be there unless that's specific lingo, Larry, that I don't understand.

The Chair: I think the terminology, if you were using it in the present tense, you would say "as currently standing" as in line in the committee.

Mr. Johnston: Stands referred to.

Ms. Smith: Okay, I'm fine, then. I don't have any other comments until we get to page 12.

The Chair: If we look on page 9, there is just a part that has been taken out, reflecting a conversation earlier. You will notice that the numbering has changed again for this draft, and that takes us through pages 10 to 14; again, a minor change on page 14 just to reflect more accurately the position we took, that it include "OLG officials, the CGA and some committee members" and the "Williams and Wood study and analysis."

Ms. Smith: If I could take the members back to page 12 for a second, just two things: In the committee, members asked Dr. Williams for evidence—you know, this is about the report that I have some issue with. The primary study he cited was a master's level thesis conducted by—was it not his student, a former gaming facility employee? I thought it was his student.

Mr. Johnston: Yes.

Ms. Smith: Okay. Could we put in "by his student, a former gaming facility employee"?

Mr. Johnston: Yes.

Ms. Smith: Then, if everybody is okay with that, my other point was just—you see at the bottom of the page where we've got recommendation 6 and then 7 and then that one bullet point, "Eliminate customer credit"? I was just wondering if we could move that up to just above "Committee members," because it's just out there and it looks like it could be part of a recommendation, but it's not. I just thought if we put it up above "Committee members asked Dr. Williams" with those other two bullet points, it gathers his recommendations together and then has ours separately. It's not crucial, just—

The Chair: Okay.

Ms. Smith: Is everybody okay with that?

The Chair: Yes.

1150

Ms. Smith: Page 14. I just want to be clear: "Some committee members"—that would be me—"expressed skepticism about the results of the Williams and Wood study and" Dr. Williams's "analysis." We didn't have Dr. Wood here, and I don't want to question his analysis if he wasn't here to give us any—

The Chair: Okay. So that sentence then would be "OLGC officials, the CGA and some committee members expressed skepticism about the results of the Williams and Wood study and Dr. Williams's analysis." All right.

Moving on to page 18, I think the one change there reflects the discussion we had by omitting "with nothing to learn from the experience of any other jurisdiction"; very straightforward.

Then we have on page 19 the summary of recommendations as was recommended in the drafting. Obviously, with the change, recommendation 3 came out. That's why you have the changes in the numbering system.

Appendices A and B of course are materials that we have heretofore looked at. I would just draw your attention to one change that reflected the conversation on page 37, which was the question of the date and the snapshot issue. So that has then been altered to reflect, "At the time of review, the board had six members;"

Ms. Smith: Yes, that's fine.

The Chair: That takes us through draft 3.

Okay. We have relatively few numbers of changes to make here. I would ask if you wish this to come back to the committee as a whole or if you wish it to be signed off by the subcommittee members. That's the first decision we have to make. Do we have agreement on the subcommittee?

Mr. Tascona: Sure.

The Chair: All right. The first question is, then, shall the draft report on the Ontario Lottery and Gaming Corp., as amended, be adopted? Obviously it will be a question of the subcommittee making that final decision. All those in favour?

Mr. Tascona: Hold on a second. I don't understand. The thing is, the changes have to be put through to the

subcommittee, so how can it be adopted by this committee?

The Chair: You're adopting the process by which the subcommittee—

Mr. Tascona: Okay. So we're talking about process. Sorry.

The Chair: All those in favour? Thank you. Carried.

Shall the final report be translated and printed? Agreed.

Upon receipt of the printed report, shall the Chair present the committee's report on the Ontario Lottery and Gaming Corp. to the House and move the adoption of its recommendations?

Mr. Tascona: In terms of that, if the report has a dissent in it, would they be bringing that back?

The Chair: That's my next question. If any dissenting opinions are to be appended to the report, they must be filed with the clerk by a specific day. We need to establish that, if there are to be dissenting opinions appended.

Mr. Tascona: That's fine.

The Clerk of the Committee: You would need to give me a date because they also need to go out to get translated, and they're included in the full, final report when it goes off to be printed. If we could make a decision right now, then we don't have to go to—today is November 29. Is Monday, December 4, okay or can you do it by Friday?

Mr. Tascona: When are you going to come back with the report for the subcommittee to look at?

The Clerk of the Committee: It depends on how quickly they can make the changes.

Mr. Tascona: I've got to deal with it in subcommittee based on if there's anything.

The Clerk of the Committee: Do you want to have a subcommittee meeting? Usually we just do a signoff sheet, but you can have a subcommittee—

Mr. Tascona: With respect, I recognize the procedure, but it does take—you are wanting to read it and make sure you've gone through it with your members and whatever. We may want to go through this at caucus, because our caucus meeting is on Tuesday. So I'm not going to limit it in terms of time frame, to be fair. The House isn't going to rise until December 14.

The Clerk of the Committee: Could you suggest a day?

Mr. Tascona: I would suggest—what is the 5th?

The Clerk of the Committee: It is a Tuesday.

Mr. Tascona: No, not Tuesday because we have caucus that day. So I would suggest the 6th.

The Clerk of the Committee: Which is the Wednesday. All right.

Mr. Parsons: We have a date we want to get it to the Legislature, is my understanding, before we rise this session.

The Chair: That's certainly the original intent of the committee.

Mr. Parsons: If we back up from that, I don't know what the time is that we require for translation.

The Clerk of the Committee: Five days.

Mr. Parsons: Okay. So we need to back up from that date.

The Clerk of the Committee: And a 24-hour turnaround for printing.

Mr. Parsons: If the subcommittee meets because it's a dissenting opinion—there's not going to be unanimous agreement on it and there doesn't need to be.

The Chair: No, there doesn't. The dissenting opinion, the issue that the subcommittee potentially could look at, is the date. That's it.

Mr. Parsons: Joe, you were suggesting the 6th or the 5th?

Mr. Tascona: The 6th is a Wednesday.

Mr. Parsons: Wednesday, okay. That will work then for translation purposes?

The Chair: That's right. Wednesday is the 6th.

Mr. Parsons: The day following your caucus will work?

Mr. Tascona: Yes.

The Clerk of the Committee: It would be due December 6.

The Chair: Ms. DiNovo, did you have a comment?

Ms. DiNovo: No, I'm in accord with that. That's fine. I was just wondering if maybe we could circumvent that by having the motions that were made, the vote and what was decided recorded and appended to this.

The Chair: That's entirely up to the authors of the dissenting report.

Ms. DiNovo: Okay.

Mr. Tascona: Let me ask you this: When would Hansard be ready on this committee?

The Chair: That's a good question. Several days.

The Clerk of the Committee: Yes. The House is sitting, so the draft Hansard may be ready in three or four days. Just because the House has been sitting late and they take priority and there are other committees sitting as well.

Mr. Tascona: So do we know? Are talking—

The Chair: This is Wednesday.

Mr. Tascona: We're talking about more than a week, so we're not going to even know if we've got no transcribed Hansard. We're supposed to meet Wednesday, if we meet next Wednesday. We're not scheduled to meet next Wednesday, are we?

The Clerk of the Committee: This committee? If we finalize the reports this week, we won't have a meeting next week.

Mr. Tascona: Okay. So is there no possibility of getting Hansard before the 6th?

The Chair: That's right. I forgot.

Mr. Tascona: No possibility of getting Hansard before the 6th?

The Clerk of the Committee: I can put in a request. I can't guarantee it.

Mr. Tascona: Okay. That's awful.

The Chair: Yes, it's a problem.

Mr. Tascona: Then it takes five days to transcribe, so are you talking business days or are you talking calendar days?

The Clerk of the Committee: Business days. Five business days.

Mr. Tascona: Okay. I'll go with your best efforts then. That's all I can say, unless you've got a different view, Cheri.

Ms. DiNovo: As I say, there are the motions and the vote appended to this. Let's put it forward like that and call it a day.

Mr. Tascona: Okay.

Ms. DiNovo: But if you'd like to take it to caucus, by all means, I defer.

The Chair: As it stands right now, then, it is December 6 on here. There being no further business, I declare the meeting adjourned.

The committee adjourned at 1159.

CONTENTS

Wednesday 29 November 2006

Subcommittee report	A-405
Agency review	
Hydro One	A-405
Ontario Lottery and Gaming Corp.....	A-416

STANDING COMMITTEE ON GOVERNMENT AGENCIES

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Mr. Michael Gravelle (Thunder Bay–Superior North / Thunder Bay–Superior-Nord L)

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Mr. John Wilkinson (Perth–Middlesex L)

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Also taking part / Autres participants et participantes

Mr. John Yakabuski (Renfrew–Nipissing–Pembroke PC)

Clerk / Greffière

Ms. Tonia Grannum

Staff / Personnel

Mr. Larry Johnston and Ms. Carrie Hull,
research officers, Research and Information Services



A-26

A-26

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**Legislative Assembly
of Ontario**

Second Session, 38th Parliament

**Assemblée législative
de l'Ontario**

Deuxième session, 38^e législature

**Official Report
of Debates
(Hansard)**

Wednesday 6 December 2006

**Journal
des débats
(Hansard)**

Mercredi 6 décembre 2006

**Standing committee on
government agencies**

Organization

**Comité permanent des
organismes gouvernementaux**

Organisation

Chair: Julia Munro
Clerk: Tonia Grannum

Présidente : Julia Munro
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

Wednesday 6 December 2006

Mercredi 6 décembre 2006

The committee met at 1010 in room 151.

APPOINTMENT OF SUBCOMMITTEE

The Chair (Mrs. Julia Munro): We will begin with an appointment to the subcommittee. Ms. DiNovo?

Ms. Cheri DiNovo (Parkdale–High Park): I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair, or at the request of any member thereof, to consider and report to the committee on the business of the committee;

That the subcommittee be composed of the following members: the Chair as chair, Ms. Smith, Mr. Tascona and Ms. DiNovo; and

That the presence of all members of the subcommittee is necessary to constitute a meeting.

Ms. Monique M. Smith (Nipissing): Can we amend that for Laurie?

Ms. DiNovo: I think she's being wise.

The Chair: Thank you very much, Ms. DiNovo. All those in favour? Carried.

SUBCOMMITTEE REPORT

The Chair: The second thing is the report of the subcommittee on committee business dated November 30.

Ms. Smith: I move acceptance of the report of the subcommittee.

The Chair: All those in favour? Agreed.

COMMITTEE BUSINESS

The Chair: We have a matter of other business. Ms. DiNovo?

Ms. DiNovo: This is at the request of some stakeholders. I know that some of the committee business has already been set. I don't know how vested members are in the agencies we're looking at, but they would like to see us review the OSC. I'm wondering if that can be on the agenda at possibly the next series of sittings of this committee in the new year. It's just a question.

Ms. Smith: My understanding is that early on in the session, we put forward all the agencies that we were going to review. All the parties made their selections and we scheduled them accordingly. Maybe in the future we'll do this again, but for the next round, we already have all our selections.

Ms. Laurie Scott (Haliburton–Victoria–Brock): Are there rules that state there can be substitutions? Which was the third party's choice?

Ms. DiNovo: I assume there is some rotation system in place, but my question was really, are members of the committee vested in the way the agenda has already been set for the next series of sittings? Is there a reason we want to review these particular agencies, or can one of those agencies be substituted if stakeholders request it and we feel they have a point? I'm not vested in this. If the committee really feels strongly about the agenda as set, that's fine with me. But I'll be bringing this up again, probably in the spring, and we'll probably be looking at it in the summer.

The Chair: I'll ask Ms. Grannum to respond.

The Clerk of the Committee (Ms. Tonia Grannum): I would just state that your selection was Ontario Power Generation for the next round. If you want to change that, you'd have to ask permission of the committee, because we have now set that. Or you can wait until the next time we do agency reviews, whenever that would be, and we'd start doing our selections then.

Ms. DiNovo: No, I don't want to substitute for OPG.

The Chair: I believe the agencies selected by the committee, as you did quite early in the year, have been contacted—no? Oh, they know. Sorry. The distinction is between being contacted and knowing. They do know they were selected.

Ms. DiNovo: That's fine. I was just checking.

The Chair: Thank you very much. Any other business?

Ms. Smith: Madam Chair, I'm a new member of the subcommittee. Can we just confirm, the subcommittee approved the final draft of the two reports—

The Clerk of the Committee: Of all three.

The Chair: Yes. Those have all been approved. They are in the process of being translated and printed. I think we can expect at least two of the three to be available by December 14.

Ms. Smith: Thank you.

The Chair: Any other questions?

Mr. Michael Gravelle (Thunder Bay–Superior North): Are we meeting next week?

The Chair: No.

Mr. Duguid, welcome to the committee.

Mr. Brad Duguid (Scarborough Centre): Thank you. I'm happy to be here.

The Chair: And Carol.

Mrs. Carol Mitchell (Huron–Bruce): I am a permanent visitor.

The Chair: I was unsure of the official status, whether you were a visitor or now a permanent member.

Mrs. Mitchell: I'm a permanent member, but I have been a permanent visitor.

The Chair: You can understand my confusion.

Mrs. Mitchell: I certainly do. I appreciate that.

Mr. Phil McNeely (Ottawa–Orléans): John Milloy is at the funeral of his aunt this morning. I'm pleased to represent him here. I like the length of these meetings.

Mr. Gravelle: You got a sub out of it, though. He owes you.

The Chair: That's right. Don't tell him how long the meeting was.

There being no other business, we do not have anything on our agenda for next week. I have submitted the requests for the three days to go to the House leaders to determine when we would meet in the intersession. I expect that to be sometime in late February, which was consistent with the message I got from several of you on that.

The meeting stands adjourned.

The committee adjourned at 1017.



CONTENTS

Wednesday 6 December 2006

Appointment of subcommittee	A-423
Subcommittee report	A-423
Committee business	A-423

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A-27

A-27

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Deuxième session, 38^e législature

Official Report of Debates (Hansard)

Wednesday 20 December 2006

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Standing committee on
government agencies

Comité permanent des
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
GOVERNMENT AGENCIES

Wednesday 20 December 2006

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

Mercredi 20 décembre 2006

The committee met at 0942 in room 151.

SUBCOMMITTEE REPORTS

The Chair (Mrs. Julia Munro): Good morning. We'll have a look at the agenda here. The first item on the agenda is the subcommittee report, so I'd ask to have somebody read the subcommittee report.

Ms. Monique M. Smith (Nipissing): Your subcommittee on committee business met on Wednesday, December 13, 2006, to consider the method of proceeding on agency reviews and agreed to the following:

(1) That the order for consideration of the selected agencies in round 2 during the winter recess be:

—Tuesday: Ontario Power Generation (OPG);

—Wednesday: Workplace Safety and Insurance Board; and

—Thursday: Health Professions Appeal and Review Board.

(2) That the background information provided to the committee by the researchers also contain information on any bills before the House, press releases and/or articles relating to the selected agencies.

(3) That each caucus provide the clerk with a prioritized list of two stakeholder groups and two alternate stakeholder groups (per agency review) they wish to invite to appear before the committee.

(4) That each agency reviewed in round 2 be afforded additional time during the time allotted in the winter recess to rebut or respond to the stakeholder presentations.

(5) That the subcommittee meet prior to the start of report writing to give further direction to the researchers.

(6) That report writing be held in camera.

(7) That the report on each agency reviewed be based on information made available to the committee.

(8) That Hydro One—

The Clerk of the Committee (Ms. Tonia Grannum): Item (7)—

The Chair: Item (7): “up to....”

Ms. Smith: Oh, I didn't agree with that one, so I'm glad we've changed it. Sorry.

(7) That the report on each agency reviewed be based on information made available to the committee up to the receipt of the first draft.

(8) That Hydro One and the Ontario Lottery and Gaming Corp. be asked to reappear before the committee

during its regularly scheduled meeting time, once the House resumes in March 2007.

The Chair: Any debate? Any discussion?

Ms. Smith: Yes. Maybe if I could just outline the ones that I have no problem with, we could get those out of the way and then look at the others. So (2), (3), (5) and (6).

The Chair: If I might just interject, in (1), I think we should probably take out “Tuesday,” “Wednesday” and “Thursday” because of the fact that we are obviously at the discretion of the House leaders on their assigning the dates, which then might not be Tuesday, Wednesday and Thursday. So I would just suggest that we might want to take out the three—

Ms. Cheri DiNovo (Parkdale–High Park): This first, second, third?

The Chair: Yes, just “Tuesday,” “Wednesday” and “Thursday.” We would simply have the order stay as it is, but take out the days.

The Clerk of the Committee: First, second, third?

The Chair: Yes. Further discussion? Further debate?

Ms. Laurie Scott (Haliburton–Victoria–Brock): Okay, here we go. I wasn't in the subcommittee meeting. So Ms. Smith is proposing that—is (1) okay now?

Ms. Smith: Yes, (1) is okay now; that was my concern.

Ms. Scott: So (1), (2), (3), (5) and (6) are to be approved. What happens, then, with (4), (7) and (8)? Do we vote on them individually?

Ms. Smith: I have amendments to propose.

Ms. Scott: Oh, okay.

Ms. Smith: So if you want, I can go through the amendments if you're okay with those ones. Chair, is that all right?

The Chair: All right? Yes, that's good.

Ms. Smith: My amendments to (1) were to take those days out, so that's fine.

“(4) That each agency reviewed in round 2 be afforded one additional hour for each agency on a fourth day during the time allotted in the winter recess to rebut or respond to the stakeholder presentations.”

If I could just explain, in the subcommittee meeting we had a discussion about wanting to bring those people back. There was some concern that 10 minutes wasn't enough at the end of the day, so what we thought was we would then advise the proponents who were coming forward that they'll have a chance in the morning to make their presentation and to come back on what would

be day four for one hour to rebut. Then we would be able to ask questions. So each would be allotted an hour, and hopefully they would take 10, 15 or 20 minutes to respond, and then we would have some time to question them. That was in response to your colleague's concerns, Laurie.

Ms. DiNovo: That sounds fine to me.

The Chair: All right.

Ms. Smith: Also, that's why we wanted to amend "Tuesday," "Wednesday" and "Thursday," because we may want to switch now to go Monday, Tuesday, Wednesday and Thursday to get everything done.

That would be my amendment to (4). I'm fine with (5) and (6).

"(7) That the report on each agency reviewed be based on information made available to the committee up to the agency's final presentation."

That would be to the end of day four.

The Chair: Any comments?

Ms. Scott: I'm sorry; could you just repeat that again?

Ms. Smith: So it's to be reviewed based on information made available to the committee up to the date of the agency's final presentation, as opposed to up to the receipt of the first draft.

Ms. DiNovo: That's fine.

The Chair: I think, Larry, you might want to speak to a question with regard to that. Did you want to just add?

Mr. Larry Johnston: I wanted to ask for clarification. If members asked for additional information that isn't received until after that date, it's conceivable that, during the rebuttal time in questions, other issues might arise where information has to be returned to the committee.

The other possibility that occurred to me was that in the instructions to the researchers prior to report writing, I'm assuming that that might be a time when some of the recommendations that different stakeholders have brought are discussed, and it could be that the committee might want some clarification on some of those issues when they're discussed prior to report writing. Those are conceivable possibilities that this wording might cut off.

The Chair: Ms. Smith?

Ms. Smith: Our view would be that, based on the information made available to the committee, if we asked for clarification or for just further information based on the information that was given, that would be okay, but nothing new. So if we were asking our research staff to come back with a clarification, like—what was it?—the LCBO, when we asked, "Can you find out what their policy is? They talked about the policy around assigning agency stores. Can you find out exactly how they determine, is it 15 miles, is it 10?" and they came back and gave us that; that would still be based on the information that we got. It was just a clarification on that, and that we don't have a problem with. And then (8) we want deleted.

0950

The Chair: If I could just go back to trying to clarify the issue on (7), if there's information made available, it seems to me that the issue is around it being relevant to what we heard, as opposed to new. That seems to be what

the concern is. I just wonder, to make it very clear to anyone that we're looking at the matter of the relevancy, that it's relevant to the hearing process—I don't have the wording here to suggest exactly, but "the report on each agency reviewed be based on relevant information made available to the committee."

Ms. Smith: Or we could say, "be based on information made available to the committee to the date of the agency's final presentation, including any relevant information or clarification provided by research."

The Chair: Okay. I think we need to include some kind of direction—

Ms. DiNovo: Or "asked for by research."

Ms. Smith: Yes, "requested."

Ms. DiNovo: "Requested," yes, because that gives a little bit more leeway, I would think.

Ms. Smith: "Including any relevant information or clarification requested from research."

The Chair: Larry?

Mr. Johnston: Could I ask one further clarification, just a hypothetical? Research has been asked to find information on X, Y or Z. In the course of doing so, research finds some information that may address something else that was raised during the committee hearings that was not brought forward by a stakeholder or the agency but that may be information that the committee would like to consider. If we find something that contradicts what a stakeholder has said or what an agency has said, we will feel that we should be presenting that to the committee for their consideration. If the committee wants to leave that out, to decide that that's not relevant, that's the committee's decision. I'm just feeling that we're a little tied here in terms of what we can present to the committee.

Ms. DiNovo: Could we maybe add something about, "agency's final presentation, including any relevant information requested from research or provided by research"?—something like that so that it's a two-way street, so it's something that we've asked for and something that you might come up with.

Mr. Johnston: I would suggest that in the last round we went straight from the hearings into report writing. I think both my colleague and I were of the impression that the first stage, the first document that we gave back to the committee, was more an item for discussion, that it was a summary of evidence and recommendations that had been brought to the committee. We weren't exactly regarding it as a draft report, which is what it ended up being titled. We would like to be able to bring to the committee whatever we have found as we're preparing our summary of what the committee has heard and clarifications that the committee has asked for, that the committee have a fulsome discussion of that material before report writing, and then whatever we put in the report would be fully the committee's decision. I think that might address some of the concerns that there were items that ended up in the report that some members felt were not addressed or raised in the hearings.

Ms. Smith: No, I don't think that's appropriate. I don't think it's the researcher's role to be gathering more

information. The proponents come and make their presentations, the stakeholders make their presentations, and we have background information that we start with. But I don't know that it's the researcher's role to go and expand the review of the agency by finding more information.

The Chair: Any comments to that?

Ms. DiNovo: Personally, I like as much information as possible before making recommendations as a committee, so I don't see the problem with allowing research to have some input on this, as well as the stakeholders and the agencies themselves. In a sense, research does anyway, just in the collation process and everything else. I don't have a problem with the active role of research, but I'm not vested in this. It's up to this committee.

Interjections.

Ms. Smith: Laurie has something.

The Chair: Yes, sorry.

Ms. Scott: That's okay. You're commenting that if everyone on the committee agreed that we needed more research, we have to give them that direction as opposed to them uncovering something after the backgrounder was prepared.

Ms. Smith: Yes.

Ms. Scott: What if they brought it to our committee and they said, "You know, we've found this document. Do we have the committee's approval to bring it forward?" I don't know how to simplify this number 7. We're getting really bogged down. I'm just looking to try to simplify it.

Ms. DiNovo: I just think the two-way-street approach might work for this agency's final presentation, including "any relevant information requested from or provided by research." I can think of an instance, for example, where a stakeholder provides information as fact which research discovers is not fact and which none of our committee members has time to research and discover isn't fact. I would want to have the information, personally, that some information has been presented to us by a stakeholder that is simply inaccurate.

Ms. Smith: We could have used that on Dr. Williams.

"Requested from research or provided by research if deemed relevant."

Ms. DiNovo: That's fair enough.

Interjections.

The Chair: That was why I thought, in making the suggestion that we refer to it as "relevant information"—you're suggesting "deemed relevant." I don't know whether that's just a semantics issue. If you have it as "relevant information requested by or provided by"—

Ms. Smith: Then we can determine, if it's "provided by," whether or not it's relevant.

The Chair: Exactly. I think that's the conversation you have when you are apprised of the information available, so you deal with any issues regarding discrepancies in submissions or omissions from these submissions. That would then be deemed relevant.

So what we're looking at now is, "That the report on each agency reviewed be based on information made available to the committee up to the date of the agency's

final presentation, including any relevant information requested from or provided by research."

Ms. DiNovo: Sounds fine with me.

The Chair: Okay.

Interjection.

The Chair: That is the date of the agency's final presentation.

Interjection.

The Chair: That's right, which would then be the fourth day that we're dealing with, up on point (4).

Mr. Johnston: That's why I raised this. The whole point is—

Interjection.

The Chair: It comes up after. That is another aspect to the issue. If we're saying "the date of the agency's final presentation," it means, then, you are unable to request something from research after that final date of presentation.

1000

Ms. Smith: No, we're not saying that. It's "based on information made available to the committee up to the date"—or instead of "including," we could say "except for any relevant information or clarification requested from or provided by research."

The Chair: Okay, "except for" then leaves it open-ended, which is what you want.

Mrs. Carol Mitchell (Huron-Bruce): But it's focused on the presentation.

The Chair: That's right. So it would be "except for."

Ms. Smith: Madam Chair, could you read the whole thing again?

The Chair: "That the report on each agency reviewed be based on information made available to the committee up to the date of the agency's final presentation, except for any relevant information requested from or provided by research."

Ms. Smith: Could we change the word "information" to "clarification"? That's really what we're asking the researchers to provide us with: clarification. That would capture the report by some stakeholder that is erroneous. They could provide us with that clarification: "We found this document that says X."

The Chair: Further comment?

Ms. DiNovo: It seems to me that this kind of limits it a little bit, just in the sense that one can sin by commission or omission. I'm just thinking that if some stakeholder omitted something that was critical to our deliberations in terms of recommending something to the agency, we would want to know that too. So that's more than clarification. It seems to me that that's actually adding in information rather than clarifying information already delivered. It's partly semantic, but I could see how that might constrain research a little bit.

Ms. Smith: I actually think that if a stakeholder has omitted something, providing that information is a clarification, not more information.

Ms. DiNovo: If research is fine with that, I'm fine with it.

The Clerk of the Committee: Are we changing it?

The Chair: No—oh, yes, we are. Is that what we're doing? Sorry. Are we changing it to "clarification" or are we—

Ms. Smith: That's what I'd like to see, yes.

The Chair: Okay, one more time: "That the report on each agency reviewed be based on information made available to the committee up to the date of the agency's final presentation, except for any relevant clarification requested from or provided by research."

Any comments on (8)?

Ms. Smith: We'd like it omitted.

The Chair: Thank you. Ms. DiNovo?

Ms. DiNovo: Obviously I disagree. I would like to see Hydro One and OLGC brought back in light of the new revelations concerning both those agencies that came out after the snapshot which this committee provided on them. Certainly, as far as the electorate is concerned, they would want to see a fulsome report on these agencies and would want to have a chance, for example, to ask some of the executives at Hydro One some probing questions, as well as the executives at the Ontario Lottery and Gaming Corp. Here's the committee that can do that. We are able to do that and we should do that. I think not to do that is really not living up to our mandate.

The Chair: Any further comments?

Ms. Scott: I know that Mr. Tascona was on the subcommittee and was quite adamant, for a lot of the same information that Ms. DiNovo has just brought up, that Hydro One and the Ontario Lottery and Gaming Corp.—we've received requests that they should come back and appear before the committee. This is the body that has the ability to do that, so that's why it was brought in in (8). I know there are dissenting views on that, but I just wanted to express that Joe Tascona and the PC caucus have requested that we bring Hydro One and the Ontario Lottery and Gaming Corp. back to appear before the committee.

Ms. Smith: Can I move that the subcommittee report be approved with the following amendments and go through my amendments? We can have this discussion over and over again, but we all know where we stand. So in the spirit of Christmas—

The Chair: If I could just offer a different route: Perhaps we could look at the subcommittee report, points (1) to (7), as amended, and if there is agreement on that, we can move that that part of the report be carried. Then we'll look at (8) separately.

Ms. Smith: If I move that we amend it by deleting (8) and doing all the rest, it kind of gets us all there in one, but I'm fine, Chair.

Ms. DiNovo: I don't have an interest in dragging it out either. Obviously, we're going to be outvoted on this, but I would like a recorded vote on it.

The Chair: Thank you. I call the vote on the subcommittee report, as amended in points (1) to (7), with (8) deleted. That's what you're voting on.

Ayes

Milloy, Mitchell, Oraziotti, Qaadri, Smith.

Nays

DiNovo, Ouellette, Scott.

The Chair: I now have to ask you to vote on the report, as amended. The amendments have carried, so now I'm asking you to vote on the report, as amended.

Ayes

Milloy, Mitchell, Oraziotti, Qaadri, Smith.

Nays

DiNovo, Ouellette, Scott.

The Chair: I declare the motion carried.

We have the other two items on the agenda. One is the question of the subcommittee business dated December 7.

Ms. Smith: I move adoption of the subcommittee report dated Thursday, December 7, 2006.

The Chair: All those in favour? Carried.

The next item is the subcommittee report dated Thursday, December 14.

Ms. Smith: I move adoption of the report of the subcommittee dated Thursday, December 14, 2006.

The Chair: All those in favour? Carried.

A fourth item, just before we adjourn: There will be a certificate issued on December 22. I ask you to make note of that. I'd also ask you to please fax that back by Tuesday, January 2, 2007.

There being no further business, the committee stands adjourned.

The committee adjourned at 1009.

CONTENTS

Wednesday 20 December 2006

Subcommittee reports.....	A-425
---------------------------	-------

STANDING COMMITTEE ON GOVERNMENT AGENCIES

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A-28

A-28

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Monday 26 February 2007

Journal des débats (Hansard)

Lundi 26 février 2007

Standing committee on government agencies

Intended Appointments

Agency Review:
Ontario Power Generation

Comité permanent des organismes gouvernementaux

Nominations prévues

Examen des organismes
gouvernementaux :
Ontario Power Generation

Chair: Julia Munro
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

Monday 26 February 2007

Lundi 26 février 2007

The committee met at 0938 in room 151.

SUBCOMMITTEE REPORTS

The Chair (Mrs. Julia Munro): Ladies and gentlemen, I think we need to call this committee to order, as time is passing and we have a very full agenda.

Our first order of business is the report of the subcommittee on committee business dated Thursday, December 21. I'm looking for someone to move its adoption.

Ms. Monique M. Smith (Nipissing): I move the report of the subcommittee dated December 21, 2006.

The Chair: Any discussion? If not, all in favour? Opposed? The motion is carried.

Our next order of business is the report of the subcommittee on committee business dated Tuesday, January 2.

Ms. Smith: I move the report of the subcommittee dated January 2, 2007.

The Chair: Is there any discussion? If not, all in favour? Opposed? The motion is carried.

Our next order of business is the report of the subcommittee on committee business dated Thursday, January 18.

Ms. Smith: I move the report of the subcommittee dated January 18, 2007.

The Chair: Is there any discussion? All those in favour? Opposed? The motion is carried.

Our next order of business is the report of the subcommittee on committee business dated Thursday, February 1.

Ms. Smith: I move adoption of the report of the subcommittee dated Thursday, February 1, 2007.

The Chair: Is there any discussion? If not, all in favour? Opposed? The motion is carried.

Our next order of business is the report of the subcommittee on committee business dated Thursday, February 15.

Mr. Jeff Leal (Peterborough): I move adoption.

The Chair: Is there any discussion? If not, all in favour? Opposed? The motion is carried.

INTENDED APPOINTMENTS

DAVID WRIGHT

Review of intended appointment, selected by official opposition party: David Wright, intended appointee as

member and vice-chair, Human Rights Tribunal of Ontario.

The Chair: We will now move to the appointments review. Our only interview today is with David A. Wright, the intended appointee as member and vice-chair of the Human Rights Tribunal of Ontario. I'd invite Mr. Wright to come forward. Good morning, and welcome to the committee. As you may be aware, you have an opportunity, should you wish to do so, to make an initial statement. Subsequent to that, there are questions from members of the committee. Do you wish to make a statement?

Mr. David Wright: I would, thank you.

Good morning, Madam Chair and members of the committee. Thank you for the opportunity to speak to you about my background and interest in the position of vice-chair of the Human Rights Tribunal of Ontario. I will begin with just a brief review of my experience.

I grew up in London and Windsor, and completed an undergraduate degree in history at the University of Windsor. I did the last year of my B.A. at McGill University in Montreal, where I decided to stay and attend law school. I completed the four-year national program in civil and common law, and graduated with the gold medal for the highest average in the graduating class. I spent my articling year as clerk to Madam Justice Claire L'Heureux-Dubé at the Supreme Court of Canada and then completed a masters of law degree at New York University.

Since 2000, I have practised at the law firm of Green and Chercover in Toronto. In this capacity I have worked primarily on behalf of unions and employees, giving advice to clients and representing them in the courts and before various administrative tribunals, including grievance arbitrations, the Ontario Labour Relations Board, and the Human Rights Commission and tribunal.

J'ai une pratique bilingue et j'ai représenté des clients en français à des arbitrages à la Commission des relations de travail et à la commission des droits de la personne.

I've developed a particular interest and expertise in both human rights and administrative law. Let me speak first about human rights.

In my studies, I placed considerable emphasis on issues of equality and diversity, and I've spent time thinking and writing about equality rights in various capacities. As a lawyer, I have represented claimants, respondents and interveners in human rights cases in the

courts, at arbitration, and before human rights tribunals. I have been a member of the Association of Human Rights Lawyers since I was called to the bar, and I am currently the chair of the constitutional, civil liberties and human rights section of the Ontario Bar Association.

I will turn now to administrative law. As well as practising before various tribunals, I have been involved in a significant number of judicial review cases, both challenging and defending decisions of administrative tribunals. I taught administrative law at Osgoode Hall Law School in the fall of 2002, and I have written two articles on the topic published in academic journals.

I have spoken on human rights, labour law and administrative law issues at events sponsored by various organizations, including the Ontario Bar Association, the Society of Ontario Adjudicators and Regulators, and Lancaster House.

Becoming a vice-chair at the Human Rights Tribunal of Ontario would use skills and knowledge I have developed in various facets of my career. I am tremendously excited and honoured by being considered for this role.

Statutory human rights legislation, including the Ontario Human Rights Code, has been recognized in our jurisprudence as quasi-constitutional law, reflecting fundamental values of our society. The tribunal's core values of accessibility, fairness, transparency, timeliness and an opportunity to be heard reflect a commitment to implementing the code in an effective and balanced way. I recognize the challenge and the responsibility of being part of Ontario's human rights system.

Although as an advocate I have primarily represented unions and employees, the role of a neutral is one into which I fit easily. I began my legal career assisting a judge, and in that capacity learned about the difficult balancing involved in making decisions, particularly on issues of fundamental rights. As a union-side lawyer, I developed a reputation for being balanced and compromise-oriented, and I believe I have the respect and confidence of lawyers on the employer side as well. As a lawyer, I usually look for the creative solution that may be in the interest of both sides. These skills would, I think, serve me well when acting as a mediator and in narrowing issues in cases before me.

With the passage of Bill 107, the Human Rights Tribunal of Ontario will soon take on revised and expanded responsibilities. The legislation contemplates the use of alternatives to traditional adjudicative or adversarial procedures if provided for in the tribunal rules. I am excited about the possibilities this will present for resolving cases in a fair, open, yet efficient manner. I am confident that my background in the theory of administrative law and procedural fairness, together with my experience as a practitioner, has helped prepare me to be an adjudicator in this new process.

Clearly, there will be high expectations for the tribunal in the coming years. I hope to bring to it not only my experience and knowledge, but an attitude of thoughtfulness, balance, empathy, and openness to all parties' perspectives and views.

I look forward to answering your questions. Thank you.

The Chair: We will commence the questioning today with the third party.

Mr. Peter Tabuns (Toronto–Danforth): To be honest, Madam Chair, I have no questions in this case. The statement was straightforward. I will pass the questioning on to the next questioner.

The Chair: Thank you. As you know, each party will have 10 minutes allocated for questions, and we'll go in rotation.

As is the practice of this committee, the time taken by your statement will be deducted from the time allocated to the government party. However, I think that still leaves us with about five minutes. Ms. Smith.

Ms. Smith: I only have one simple question. I think that you're eminently qualified for this position and I'm delighted that you've chosen to apply. Could you just tell us how you came to apply for vice-chair of the tribunal?

Mr. Wright: Certainly. When the government first announced its intention to make changes to the human rights system, I spoke with the chair of the tribunal, Michael Gottheil, about my qualifications and my interest in any new positions that might come available. This particular position was advertised on the Public Appointments Secretariat website in June. I applied to the PAS and was interviewed by a panel consisting of three members: the chair of the tribunal, Michael Gottheil; tribunal member Kaye Joaquim; and Mary O'Donoghue, an external member who's counsel to the Information and Privacy Commissioner.

My understanding is that there were five candidates interviewed. The interview consisted of responding to one question for which the candidates had several days to prepare an answer and several others that we received shortly before the interview started and had a few minutes to prepare. The interview was about an hour.

Ms. Smith: Thank you, and thank you for considering the human rights tribunal.

The Chair: Thank you very much. We'll move on to the official opposition.

Mr. John Yakabuski (Renfrew–Nipissing–Pembroke): Thank you, Mr. Wright, for joining us this morning. I have a few questions. Have you had any connections with any political party in the past?

Mr. Wright: Yes, the NDP.

Mr. Yakabuski: In what capacity?

Mr. Wright: I've been a member, and I was the vice-president of the youth in the early 1990s.

Mr. Yakabuski: You raised the issue of your neutrality with regard to this position, because clearly you're expected to rule on cases. Your history is not one of neutrality. Would that be a fair assessment?

Mr. Wright: Not political neutrality, no, and obviously as a lawyer I've represented various clients who have a point of view. But the values in the Human Rights Code are values that probably all political parties subscribe to, I would believe and I would think. Obviously there's a role, as a vice-chair, occasionally of ruling on whether

government legislation complies with the Human Rights Code.

Obviously that's in my past. I would maintain a position of strict neutrality as a member and a vice-chair of the tribunal. I think that my job would be to enforce the provisions of the Human Rights Code as passed by this Legislature and as established in the jurisprudence. I'm confident that I'd be able to do that with complete neutrality.

Mr. Yakabuski: So when we see, for example, the makeup of our courts or tribunals or anything like this, the Supreme Court or Court of Appeal or whatever, and we always hear talk about, "Well, the court is shifting this way or that way, right or left," we always seem to see—if there's an appointee who is perceived to be on the right side of the political spectrum, there's always a great deal of protest. I guess that would be a question I'd ask. I would say that you would be the first one to say that you would reside on the left side of the political spectrum.

Mr. Wright: I think that in the matter of human rights it's probably not—I don't think human rights are a matter of right or left, quite frankly, and as a lawyer I've represented both applicants and respondents in human rights matters. I understand, through my background as a lawyer and in working for a judge as well, that there's very difficult balancing in issues of fundamental rights, and I'm not sure that that balancing, quite frankly, is an issue of right or left. For example, on matters of the charter, we've seen people on the left question courts having overturned government legislation and we've seen people on the right do that. So I don't think that the issues that are before me are really issues of right or left, quite frankly.

Mr. Yakabuski: I suppose that's—that wasn't my question. My question was whether you would consider yourself to reside on the left. Supposing a very qualified person came for this appointment or any other appointment, but a Human Rights Tribunal appointment, who was known to sit on the political right—I would say that you would be known to sit on the political left. If they were eminently qualified, capable from a historical, training or legal point of view—there was no question about their qualifications—but they sat on the political right, would you consider them to be a reasonable appointee to this tribunal in, say, this position?

Mr. Wright: Yes.

Mr. Yakabuski: Yes. So no one should be judged based on where they sit on the political spectrum for an appointment to, say, the Human Rights Tribunal, the Supreme Court or the Court of Appeal or anything like that?

Mr. Wright: No.

Mr. Yakabuski: It should be judged based on the qualifications of the person looking for the appointment?

Mr. Wright: Yes.

Mr. Yakabuski: Thank you very much. I do see that your qualifications are very good; we have no problem with that.

The Chair: We've had the opportunity to hear the comments and questions, so I would thank you very much for coming. You may step down.

Mr. Wright: Thank you.

The Chair: We will now deal with concurrence. We'll now consider the appointment of David A. Wright, intended appointee as member and vice-chair of the Human Rights Tribunal of Ontario.

Ms. Smith: I move concurrence of the appointment of David A. Wright.

The Chair: Concurrence in the appointment has been moved by Ms. Smith. Any discussion?

Mr. Yakabuski: What do we do?

The Chair: Are you agreeing with the appointment?

Mr. Yakabuski: Oh, yes.

The Chair: All those in favour? Opposed? The motion is carried.

Thank you, Mr. Wright, for being here with us this morning.

We will now commence our agency review with Ontario Power Generation.

Interjection.

The Chair: I'm going to suggest that we recess until 10 o'clock, just to give people an opportunity to come in.

The committee recessed from 0952 to 1000.

AGENCY REVIEW

ONTARIO POWER GENERATION

The Chair: Good morning, everyone, and welcome to the standing committee on government agencies. This morning, we are looking at a review of Ontario Power Generation, and I'm very pleased to welcome all of you here to take part in our deliberations. I would ask, for the purpose of Hansard, that you introduce yourselves and then you may begin your presentation. Mr. Epp?

Mr. Jake Epp: Thank you, Madam Chair. Just to follow your instructions, why don't I do that right at the beginning and start on my left. Is it preferable for you to have them introduce themselves for Hansard purposes?

The Chair: For Hansard purposes, either is fine. If you're comfortable doing that—

Mr. Epp: Why don't we do that. Jim?

Mr. Jim Hankinson: Jim Hankinson, president and CEO, Ontario Power Generation.

Mr. Pierre Charlebois: Pierre Charlebois, chief operating officer, Ontario Power Generation.

Mr. Donn Hannbidge: Donn Hannbidge, chief financial officer for Ontario Power Generation.

Mr. Epp: Also with us today is Mr. William Sheffield—there he is. Bill chairs our compensation and human resources committee and is a member of the board of directors. If you have any questions relating to how the board determines the salaries at OPG, Bill will give me assistance.

Madam Chairman, thank you to you and your committee for the invitation to appear here this morning. At Ontario Power Generation, we welcome the opportunity

to discuss what we've done since 2003 in the matter of how we stabilize the company and improve its performance. This appearance is especially meaningful for me personally because it is an opportunity to explain how we have achieved the turnaround at OPG.

I first became directly involved with the company in May 2003. I was asked then to look at the issues in the refurbishing of unit 4 at Pickering A. As the electricity industry knows, Ontario Power Generation has made major strides since then: Production has increased in our hydroelectric and nuclear divisions, our fossil plants are more reliable, and we have had profits for the past three years. As many of you will remember, after I presented my initial report in December 2003, I went on to work with the Honourable John Manley and Mr. Peter Godsoe, formerly chairman of the board of the Bank of Nova Scotia. Our committee produced recommendations on how to return OPG to focusing on its core business, and that is the generation of electricity for Ontarians. I became acting chairman of OPG in December 2003 and chairman of the present board in April 2004.

Let me recall some of the steps we took to bring stability back to OPG and re-establish it as a premier electricity-generating company. First, a new board had to be assembled. It is a board with expertise first in nuclear operations; it is a board with expertise in managing major projects; it's a board with expertise in investing the large, segregated funds under OPG's control; and it's a board with expertise in ensuring that a large company such as OPG is run effectively on a day-by-day basis.

Next, OPG needed a new, experienced president to provide the leadership to beleaguered management and employees of the company and to create a new sense of direction. In particular, the board was determined to find a president who had had experience in running a company with a nuclear unit. There was no time for a neophyte to learn, no time for on-the-job training. The intricacies of a nuclear operation just don't allow for that. After a lengthy external executive search, we found the man we needed, and he was already on our board: That's Jim Hankinson, sitting next to me. A board member appointed shortly after the major changes at OPG at the end of 2003, he brought significant experience to us. Through his years at Canadian Pacific, culminating with five years as president and chief operating officer, he had acquired the knowledge and the skills needed to run large corporations and a company that is diverse in its operations and that is geographically spread out. He had gained invaluable experience as chief executive officer running a generating company that had a nuclear division during his almost six years as president of New Brunswick Power.

Under Jim and his team of executives, the management of OPG has been reorganized to ensure that the company's priority is on improving the performance of our production units. OPG is focused on ensuring that we have the know-how and the people to take on new projects, something that wasn't there in 2003. We've been asked to do this by the government on a number of occasions.

With a new board and a new president, OPG needed a definitive understanding with the government on what the government expected from OPG. So in August 2005, OPG and the government agreed to a memorandum of understanding, which was signed by the minister, the Honourable Dwight Duncan, and myself on behalf of the company. The memorandum of agreement rounded out the high level of accountability previously established by the government for OPG, including making us subject to the Freedom of Information and Protection of Privacy Act, the Public Sector Salary Disclosure Act and the Auditor General Act. Those accountability mechanisms are additional to the disclosure and reporting requirements of the legislation under which the OPG was established, and that is the Ontario Business Corporations Act.

The memorandum of agreement allows the government as our shareholder, under the terms of the Ontario Business Corporations Act, to direct OPG to undertake special initiatives by sending the board written declarations from the shareholder. These declarations must be made public. This higher level of transparency demonstrates the separation of policy-maker and commercial electricity generator and it provides for clear, public accountability for decisions.

The turnaround, we believe, has been remarkable, as was generously noticed last summer by both the Premier and the Minister of Energy, and Ontario Power Generation is working to be even more effective in serving the people of Ontario.

With that, Madam Chair, with your indulgence and the committee's, I would ask Mr. Hankinson to make a couple of comments.

Mr. Hankinson: Thank you, Jake. Good morning, ladies and gentlemen. I am pleased to be here this morning. I will tell you what I have said to the employees at OPG, to our board and to the shareholder, and that is that at OPG it's all about performance, and we know that it is important to do what we say we will do.

Yes, OPG had a good year in 2006, both in generation and in financial terms. We achieved a profit for the third year in a row, our production divisions are performing better than they were three years ago, but we want our performance to be even stronger. We are working hard to increase our production of electricity and we will continue to provide power safely, efficiently and responsibly. We want to return value to our shareholder. This is what good companies do, and we take pride in doing this.

As you likely know, both demand and price for electricity declined last year. This pulled down OPG's revenue. Looking ahead, the lower demand and prices likely will continue to constrain OPG's revenue in the coming months. This, coupled with our need to invest in new generation projects that have been requested of OPG by the government, is likely to result in fresh financial challenges throughout Ontario Power Generation in 2007, given our constrained revenues. However, we are working to build the new generation plants that will be needed in the near future. We are in a partnership that is building a new natural-gas-fired plant in Toronto. We are

digging a tunnel to increase the power we generate at the Beck complex in Niagara Falls. We are developing hydroelectric resources in northern Ontario. We are assessing whether there is a business case to support refurbishing for nuclear units at Pickering B. We have launched the application process to build new nuclear units at Darlington.

Now, I believe that my time to comment is up. We are ready to answer your questions.

The Chair: All right. I think we'll start in 10-minute rotations and begin with the official opposition.

Mr. Yakabuski: Thank you very much for joining us today. We appreciate your coming in. I'm going to start with a couple of questions with regard to the government's on again, off again—I'm not sure where they are—policy with regard to coal-fired generation in Ontario.

When they were in opposition, they made what now Premier McGuinty said was an ironclad commitment, no ands, ifs and buts about it. We haven't been able to find any experts who will say that they advised the Liberal Party at that time on that promise, nor has the government been willing to disclose the names of those experts. Even though under questioning of the estimates committee they agreed to do just that, they haven't done that. I'm wondering what the position of OPG would have been in 2002-03 with respect to the prospect of being able to, from an operational point of view—and I understand you can close a plant down tomorrow if that's all you're interested in doing, but you also have a responsibility to provide power. What was the likelihood, or even the possibility, that all of the coal-fired plants would be shut down by 2007 and the power supply of this province not be completely jeopardized?

1010

Mr. Hankinson: Thank you, Mr. Yakabuski. To remind you, I was not at OPG in 2002-03. I became CEO in May 2005.

It would have been viewed by OPG people at that time to certainly be a challenge. However, OPG was not part of that decision; we are not policy-makers. But our view was then and continues to be today that insofar as the coal plants are needed and required by the province, we will ensure that they're in as good an operating state the day they close down as they are today.

Mr. Yakabuski: When the government took office in 2003, there would have been then an order of some kind—there must have been an order issued at that point. What were those orders and what discussions took place? Did the government, for example, sit down and say, "Can we do this? Now that we're actually government, can we do this?" or were orders simply issued to proceed with the plan to follow through on those shutdowns?

Mr. Hankinson: The information I have is that OPG was not consulted at the time. We did receive a directive to close the Lakeview plant, I believe in late 2005, and we complied with that directive. I understand that when the government deems it to be appropriate to close other

plants, we will receive individual directives specific to each plant at that time.

Mr. Yakabuski: It's my understanding that the regulation to close Lakeview was passed by the previous government and that the date was determined at that time, that it would have to cease producing as of the prescribed date.

Mr. Hankinson: I believe that's correct. Nonetheless, we did receive a directive to proceed with the shutdown of Lakeview.

Mr. Yakabuski: On the emissions side, the government's been touting the numbers from 2006. I know that those numbers dropped relative to 2005. Can you tell us how much of that has to do with a reduction in the number of terawatt hours, gigawatt hours produced by the fossil plants, some of the operational changes that you people have made with regard to turbine improvements, and also lower-sulphur coal etc., which were your own decisions based on the efficient operation of your utilities, and how much has been a result of an issued directive from the government? What role has the government actually played in the reduction of emissions from the fossil-fired plants at OPG?

Mr. Hankinson: As you know, OPG had certain programs in place to improve quality and quantity of emissions. We did put certain equipment in place in the late 1990s and early 2000s. Also, you specifically referred to 2005-06. In 2006 we were fortunate in that we could run our fossil plants less than we did in 2005. Actually, in 2005 our production was just a bit over 30 terawatt hours and in 2006 that dropped to about 25 terawatt hours. So there was a significant reduction in the quantity of electricity produced. The reason for that was that our nuclear performance was strong in 2006, as was our hydro business. Both were up over the previous year, which allowed us to run our fossil plants less. Also, we had a reduced demand in 2006 for electricity. Does that answer your question?

Mr. Yakabuski: In short, would it be fair to say then that in spite of their glowing press releases etc., touting their own record, Mother Nature and OPG's own initiatives were the reasons that emissions from fossil plants were down in 2006, and in fact, the government played no role whatsoever?

Mr. Hankinson: We had the support of the government in terms of refurbishing Pickering A, for example, which brought on 500 more megawatts. We've had the support of the government in hydro initiatives. Both of those things have allowed us to run our fossil plants less, together with lower primary demand that we experienced in 2006.

Mr. Yakabuski: So no specific directives or initiatives by the government led to the reduction of emissions at the fossil-fired plants?

Mr. Hankinson: We received no directives from the government as it relates to coal other than for the shutdown of Lakeview.

Mr. Yakabuski: Perhaps we'll get that in the next press release.

Remaining on the emissions side: During the time leading up to the campaign of 2003, when then opposition leader McGuinty cited the reason for shutting down coal-fired plants, never once were the words “greenhouse gases” or “CO₂” mentioned. It was NO_x and SO_x and the effect on the health of children and childhood asthma and respiratory diseases, and those are key components for those particular ailments. One of the initiatives of the previous government to reduce NO_x and SO_x was the installation of scrubbers and SCRs.

I have some data here somewhere from the Ontario Clean Air Alliance. I don’t know if they are speaking to us on that today, but your own data as well—based on the emissions of nitrous oxide and sulphur dioxide and other particulates that can be dealt with partially by the installation of scrubbers and SCRs and other mitigation equipment, where would we be today—because we’ve raised this issue on numerous occasions with the government and they have said, “No, we’re not putting any of that equipment on because we’re closing these plants.” Now we’re basically near the end of this government’s mandate and nothing has been done with regard to closures of plants. As I say, Lakeview was closed as a result of the regulation passed by then-Environment Minister Elizabeth Witmer. At that time the Premier of today was saying “600-and-some premature deaths as a result of” etc. and he talked about, “When I see smog days in Algonquin Park, that’s it; we’re shutting these plants down.” They’re still operating, and nothing has been done to mitigate those emissions other than, as you said, the reduction of the use and the need of these plants, some of the efficiencies that you people have done yourselves as responsible operators of a utility, but no government initiative, no installation, no investment in installing this kind of equipment.

I guess what I’m asking is: How much further ahead could we be with regard to the emissions of those key components had mitigation equipment been installed or the program continued that was already in place to install that kind of equipment on the remaining six units at Nanticoke and two at Lambton, as far as your big operators are concerned?

1020

Mr. Hankinson: At the beginning of your question you referred to CO₂, and I think it’s important that we draw a distinction between CO₂ and what we refer to as pollutants. CO₂ is a warming gas; it’s technically not a pollutant.

We had indeed installed scrubbers and SCRs on several of our plants, and that had reduced emissions dramatically—pollutants: NO_x, SO_x, mercury, that kind of thing.

In terms of CO₂, that’s a much more difficult problem because CO₂ really cannot, under most technologies today, be captured, and even if you capture it, what do you then do with it? Some of the new technology going forward would look to streaming CO₂, capturing it and then storing it in some way. But we’re a number of years away from those kinds of initiatives. So in terms of CO₂,

there really isn’t much that can be done in the short term to lower the levels of CO₂ in the atmosphere, but certainly technology exists today that can capture 90%-plus of what technically are known as pollutants: sulphur dioxide, nitrous oxide and mercury in particulate and that kind of thing.

The Chair: Thank you very much. We’ll now move on to Mr. Tabuns, please.

Mr. Tabuns: Good morning. Could you start off by giving us an estimate of the dollar value of the power that’s generated by our coal-fired plants and sold to the United States?

Mr. Hankinson: I can’t give you that off the top of my head, but certainly I can get that information for you.

Mr. Tabuns: Do you have a sense of how much of our coal generation is exported, not in dollar terms, but in percentage?

Mr. Hankinson: We don’t divide it up that way. An electron produced by a fossil plant looks the same as an electron that’s produced by a nuclear plant. So it becomes a question of: What are the market opportunities out there, and are we in a position to take advantage of that opportunity? Opportunities that OPG would have to export in the market are generally in off-peak periods as opposed to peak periods during the day.

Mr. Tabuns: Do you have any figures within your corporation that would be able to tell people how many hours a year those coal plants are operated in order to export power to the United States?

Mr. Hankinson: Yes. It’s probably a question that is better asked of the IESO. We have one customer, and that happens to be the IESO.

Mr. Tabuns: Okay. Fair enough. In terms of clean coal, have you been asked by the provincial government to investigate carbon sequestration?

Mr. Hankinson: No; we have not been asked that.

Mr. Tabuns: I gather that you would not be forecasting demand; that’s something that’s done by the OPA, the IESO. So there’s no point in asking you questions about how you do your forecasts. Are your plans for generation—no, I’m going to go back to another question.

Mr. Yakabuski was following this line. When we looked at the reports that came out last year about power generation, we didn’t see any impact from the conservation activities undertaken by the provincial government. What we saw were comments from different authorities saying that, yes, there was reduction in demand because of reduction in economic activity, reduction in demand because there was less impact on the part of the weather. Are you actually seeing impact on your power generation from the conservation activities of this government?

Mr. Hankinson: We don’t attempt to identify that specifically. What we do see is a reduction in primary demand. The question of what causes that reduction would be better addressed to the OPA and the IESO.

Mr. Tabuns: Okay. So you were simply given a number by OPA, “Generate this much power in this time

frame,” and you do your best to meet that demand request. Is that correct?

Mr. Hankinson: Not really. We try to, obviously, produce as much electricity as we can at appropriate cost levels, and we bid into the marketplace.

Mr. Tabuns: Okay. Can you tell me: In your operations, how much money are you allocating to take care of high-level and mid-level nuclear waste?

Mr. Hankinson: A lot of money.

Mr. Tabuns: More specific, please.

Mr. Hankinson: I'd like to ask our chief operating officer, Pierre Charlebois, to comment more specifically on that.

Mr. Charlebois: For a number of years now, Ontario Power Generation has been putting money aside in a fund for the future decommissioning and storage of nuclear waste. Mr. Hannbidge probably has more exact figures, but I believe that the fund value at this point is approaching \$7.5 billion.

Mr. Hannbidge: That's correct.

Mr. Tabuns: And that's for the high-level waste?

Mr. Charlebois: That's for all of the nuclear waste and the decommissioning; that's correct. This is intended for the disposal of the waste that is generated by Darlington, the Pickering nuclear facility, as well as the Bruce power plants that have been leased to Bruce Power.

Depending on the actual year and the amount of money that we have to put aside in the fund, our contribution can range from \$200 million to \$300 million on an ongoing basis. Maybe Mr. Hannbidge can confirm that.

Mr. Hannbidge: Yes. In fact, our annual contributions to the nuclear funds are closer to \$450 million per year.

Mr. Tabuns: Will that allocation of funds be adequate to cover your projected liabilities?

Mr. Charlebois: The question of the liabilities and the amount of money that should be put aside in the funds is something that is reviewed every five years. It is also reviewed by the regulator in Ottawa, the Canadian Nuclear Safety Commission, to make sure that it in fact represents an objective estimate of the amount of money that will be required to do so. In preparing those estimates, we engage experts who have experience elsewhere in the disposal of low-, intermediate- and high-level waste to give us some advice and so on. We present that information to the regulator in Ottawa.

We are in the process of updating our estimate, and we'll be speaking with the CNSC later this year on the updated numbers. But yes, we are confident that the funds as they exist today will be sufficient to cater to the disposal of this waste in the future.

Mr. Tabuns: Can you give us a number as to the total value of the liability for dealing with high-level, mid-level waste and the decommissioning of the plants?

Mr. Hannbidge: I could answer that question. The total value of that liability today, the net present value, is just over \$10 billion.

Mr. Epp: Sir, you'll find that also in our MD and A primarily at the end of the year. I think we've just published that and those numbers are in there as well.

Mr. Tabuns: Okay. There are significant plans for expansion of nuclear generation in Ontario. Have you done projections as to the amount of money that you're going to have to set aside to cover the waste generated by those activities?

Mr. Charlebois: In any of our planning activities, in response to requests by the Ontario Power Authority, we would take into consideration the full life cycle costs of a new nuclear facility, from the initial construction, obviously, its operation over its lifetime, and its ultimate disposal. So all of that would be considered in the analysis.

Mr. Tabuns: Can I just go back? I don't think I understood something. The net present value of dealing with all the waste and the decommissioning is \$10 billion, and we have \$7.5 billion set aside.

Mr. Hannbidge: That's correct.

Mr. Tabuns: So we're short \$2.5 billion?

Interjection.

Mr. Tabuns: No? That's why I want to understand this.

1030

Mr. Hannbidge: Presently we are, but as I mentioned previously, each year we're funding the fund at about \$450 million per year. On top of that, we have earnings from the fund.

Mr. Tabuns: Okay. So right now, your expectation is you've covered 100% of your liability with what has been set aside. At \$450 million a year, you will be covering 100% of your liability.

Mr. Hannbidge: Yes, over time, we will cover 100% of the liability.

Mr. Tabuns: Okay. I was going to ask further questions about the decommissioning, but you've covered all of that.

The mid-level waste repository at Bruce—

Mr. Epp: Low- and mid-level.

Mr. Tabuns: Low- and mid-level; fair enough, Mr. Epp. Where do things stand in terms of that being ready when you believe it's going to be necessary to be ready?

Mr. Charlebois: For the low- and intermediate-level deep geological repository at Bruce, the processes with the regulator started late last year. In December, we appeared in front of the commission, at a meeting of the commission. The proposal for environmental assessment was presented to the commission. The decision by the commission was that the proposed deep geological repository at Kincardine should be subjected to a full environmental panel assessment, which would receive a very detailed review and assessment of the technical and societal issues that may result from the potential construction of such a facility. That decision has been rendered. We are awaiting consultation that is taking place at the federal level with respect to the form and composition and timing for the environmental assessment and the panel reviews.

In the meantime, we at Ontario Power Generation are continuing our scientific work, including drilling at the site to gather more information with respect to the rock formation and the geology of the region, and conducting and doing our technical work in preparation for the submission to the EA. We've held many community information sessions at the site in Bruce county, and we have good, strong support for the project at the Kincardine site.

Mr. Hankinson: Perhaps I could just add a couple of points to that. Two things: We will not bury waste anywhere we don't believe it's safe to do so. We don't have the answer to that yet. The studies and reviews that Pierre talks about will indicate whether or not that level of confidence is there for that site. If so, we will proceed; if not, we obviously will not proceed.

The second point is that we will only deal with willing host communities. We're not going to put waste in communities that don't want it. So far, Kincardine has proven to be a very willing host community, and we would be supportive of that.

The Chair: Thank you very much. I turn to the government members. Mr. Leal.

Mr. Leal: I certainly welcome Chairman Epp and your colleagues here this morning. Chairman Epp, I'd be remiss if I didn't recognize your enormous contribution to the provinces of Manitoba and Ontario—indeed, your contribution to our nation—over many years.

My first question is: When we had the privilege of forming government in the fall of 2003, we certainly campaigned on the necessity of OPG to be more open, more accountable and focused on operations. Could you indicate to the committee this morning, Mr. Epp and your colleagues: What were the first things you did to turn OPG around to a more open, more transparent organization?

Mr. Epp: First of all, thank you for those kind words. Sometimes your previous electorate has other views. I didn't have that experience, but I understand that people do, from time to time.

The issue of OPG and openness: Openness always is a challenge because the natural inclination, I think, of anybody is just to do your job. You know what you're doing and you do your job. I think the openness that OPG now is under is good for OPG and, if I may say, good for the people of Ontario.

If I can give any word of advice, if that's appropriate at all, I would be very hesitant to remove the other discipline of an OBCA company, which requires us also to meet commercial disclosure. If you take a look at what the government did with its legislation, putting us under the various acts which I listed in my opening comments, as well as being an OBCA company, where we have to meet commercial disclosure—those two disciplines, I believe, are good for a company. It might be uncomfortable from time to time, but I think it's necessary. I hope I'm answering your question.

Mr. Leal: To follow up on that, Mr. Epp, when you were brought in towards the end of 2003, OPG at that

time had no nuclear experience on the board of directors despite having one of the largest fleets for nuclear generation in North America. Beyond Mr. Hankinson and his involvement now, could you give us a bit of a profile of the other members of the board that you helped to recruit and the expertise that they bring to the board of directors of OPG?

Mr. Epp: Yes. First of all, a board of directors has to have many skills. I always say that the board that we were able to recruit, with the exception of the chairman, is very qualified.

Let's look at it very seriously. First of all, nuclear experience: We have people like Don Hintz, who was CEO of Entergy. There's been a turnaround in the United States, and if you look at the production capacity of their existing plants, there's no question that Don Hintz was one of the architects of that turnaround. Some people call it a renaissance.

We also brought on Corbin McNeill, who had given advice to the John Manley committee. Corbin was president and CEO of Exelon, and ran for a while the New York public utility. So he had this knowledge both of the private sector, obviously with nuclear technology, and expertise and operational experience in the public sector. People like that are not easy to come by.

Thirdly, we brought on Dr. Gary Kugler, whom I'd known for many years at AECL and who was close to retirement. From a technical point of view, there probably isn't a peer with respect to Candu technology.

We've already referenced Jim, who operated New Brunswick Power.

So on the nuclear side, I was—I should say this, and I didn't: When it comes to appointments, governments generally hold that responsibility and that right very closely, and that's normal. But in this case, the government gave us very much a free hand. They said, "Get the best and turn the company around." So we also hired an outside consultant who helped us on the construction of best governance or best practice.

We also have expertise in other areas, and I'll just give one. We came out of the debacle of Pickering A unit 4 and brought on a Canadian, now a resident of London, who has got very good large-project experience.

Melding all that together, I believe Ontario is, as I say, well served by the board you have.

Mr. Leal: Just as a commentary, in my riding of Peterborough, of course, sits the headquarters of GE nuclear products and Numet Engineering. From time to time, I have discussions with Peter Mason, who's the vice-president for GE nuclear products, and the principals of Numet Engineering, and they certainly concur with what you've provided us this morning. They have confidence in the strategic team that you've assembled to deal with the nuclear side of your fleet.

If I could switch gears for a minute and go to performance, when we had the privilege of forming government in late 2003, one of the key commitments and key observations was to improve the performance of OPG. Can you give us some indication this morning of how OPG's nuclear performance has improved since 2003?

1040

Mr. Epp: I'll ask Mr. Hankinson to answer that.

Mr. Hankinson: We take performance very seriously and every quarter we produce a document like this. The heading on it is "It's All About Performance." We're proud of what we've been able to accomplish in the last few years, not only in nuclear performance but in hydro and in fossil.

Perhaps I will ask Pierre, as our chief operating officer, to give you some more specifics about operation.

Mr. Charlebois: Maybe I should speak to, broadly speaking, the improvements that we've seen in our nuclear fleet, which range from improved performance in employee safety, improved performance in public safety. You may recall some number of years ago where licences issued by the regulator in Ottawa were of short duration. In the last three years we had all of our licences renewed for five years. Therefore, the regulator is satisfied with the safe operation of our facilities. Improvements in unit performance as well are very evident in our facilities. Steadily, every year, we have good, solid performance by our employees.

In terms of production, in 2003 we produced about 38 terawatt hours. The next year after that we produced 42; the year after that, 45; and in 2006 we produced nearly 47 terawatt hours. We know there is still potential and opportunities for improvement.

We would judge the performance of our Darlington plant to be top-notch, approaching 90% on an ongoing basis in both 2005 and 2006: excellent performance, a very strong producer of energy for the province, about 19% to 20% of the energy the province needs.

At Pickering B we have made considerable improvements in the plant condition and just finished last year a major four-year program to rehabilitate and inspect all of our fuel channels on all four units. That's 1,500 channels. That's done, so now we're looking forward to shorter outages in the future; we expect that performance to come up.

So, overall, a good, steady pace. Even financially, we've met our budgets every year. We've delivered on our work programs. We're satisfied that we're on track.

Mr. Leal: Mr. Charlebois, if I could just follow up, I don't know whether you collect this information or not, but in terms of performance of nuclear facilities in North America, where would Darlington rank in terms of output, performance and capability?

Mr. Charlebois: Well, maybe I can do a general comparison. Today, the average capacity factor for the entire fleet in the US is approximately 89% to 90%, depending on the years, but typically that's the steady, good level of performance that we're seeing. Our four units at Darlington in fact are operating around that level as well, between 88% and 90%. Some of our units, obviously, in some years are doing a whole lot better than 90%. So we're quite satisfied with the performance.

Cost-wise, the Darlington plant, on a production unit energy cost basis, which includes all fuel, services,

labour and everything, is very competitive compared to the US counterparts.

Mr. Leal: Thank you very much, sir.

The Chair: Thank you. We'll move around, then, to the official opposition. Mr. Yakabuski.

Mr. Yakabuski: Thank you very much. We didn't quite get finished that last part of our question there, or maybe didn't get exactly the answer we might be looking for.

I'm just going to give you some numbers, and these numbers are taken from the Ontario Clean Air Alliance's latest publication. They are the numbers for sulphur dioxide and nitrogen oxides.

Sulphur dioxide: Nanticoke generating station, 2005, in tonnes, 67,947; Lambton generating station, 29,343.

Nitrogen oxides: Nanticoke, 23,171; and Lambton, 8,991.

I want to ask that question again: What would these numbers be if OPG had been allowed to continue its program of installing emission-reduction equipment on those stations, bearing in mind that it's the current Premier who cited those emissions as the reason for proceeding with a coal shutdown policy? It wasn't CO₂ at that time; it was smog-causing and health-affecting pollutants. Where would we be today, or in 2005—maybe you have numbers for 2006 as well; I don't know—but what would those numbers be, or could you approximate them, if this government would have continued to allow you to install that equipment?

Mr. Hankinson: Pierre, do you want to take that one?

Mr. Charlebois: Sure. First of all, today our plants meet all the regulations. In fact, the emissions at all of our facilities are well below the allowable regulations and limits set by the province. If we had been directed to install additional cleaning equipment on our emissions, then clearly the plants would be performing better. I'm not in a position to tell you percentages or numbers at this point, but what I would like to say is that the Ontario Power Authority has been asked to examine that question by the government. They are doing this work. We have been providing input to the Ontario Power Authority in terms of options or alternatives, and that work is currently in progress.

Mr. Yakabuski: So no directive to the OPA for the first three and a half years or so of the government's mandate, and now all of a sudden it feels it's necessary.

You have scrubbers and SCRs on how many units at Nanticoke?

Mr. Charlebois: We have SCRs installed on two units.

Mr. Yakabuski: Just SCRs on Nanticoke?

Mr. Charlebois: That's correct.

Mr. Yakabuski: And at Lambton, you have SCRs and scrubbers on how many units?

Mr. Charlebois: On two units.

Mr. Yakabuski: So two of four at Lambton and two of eight with SCRs at Nanticoke.

Mr. Charlebois: That's correct.

Mr. Yakabuski: So if you take those numbers at Nanticoke, it would be reasonable to expect that if all eight units had both types of emissions controls on, we would be bringing those down—85%?

Mr. Hankinson: Perhaps just to help with that, if I may, the two units at Lambton, units 3 and 4, which have FGDs and SCRs on them, are two of the 10 top cleanest units in North America. Nanticoke is a huge facility; if any of you have ever been there, you can't help but be impressed at least with the size of this operation. In North America, there's something like 475 coal plants. Nanticoke would be among the top third in terms of its clean emissions, but we'll quickly sink on that scale, perhaps to the bottom third, five years from now, if they're still operating, as the US moves to clean up their plants.

We're very careful to benchmark all of our operations, not only fossil, against the best out there. Today we have no apologies to make in regard to comparisons with the US. On the other hand, that will decline over time.

Mr. Yakabuski: If so directed, you would be prepared and in a position to install this kind of equipment at both Nanticoke and the remaining units at Lambton over what period of time?

1050

Mr. Hankinson: That would be one of the criteria that would be necessary from our point of view, to be directed, but secondly, we would want to be compensated. Our financial position at OPG is better than it has been in the past, but we're being asked by the government—and we're willing to do many more things, many projects, but that's a costly exercise as well. If we were asked to install more pollution equipment, I would hope it would be accompanied by a means or a revenue stream that would pay us for doing the work. So there are those two conditions from OPG's point of view.

We are a company with a commercial mandate and, in those circumstances where the government wishes to direct us in such a way that we don't consider in a narrow commercial sense to be appropriate, they have the authority under section 108 of the Ontario Business Corporations Act to so direct us. If we were so directed, yes, we would follow the directive.

Mr. Yakabuski: The Premier attached a great deal of value to the lives of 665 people a year in 2002. Certainly he can't have forgotten about them. I imagine he would be thinking that those lives still have some value, so I don't know why they haven't continued with the process of trying to reduce those emissions.

Are you familiar with Bryne Purchase?

Mr. Hankinson: Yes, I know who he is.

Mr. Epp: Mr. Purchase was the deputy minister when I did the review and when the interim board was established.

Mr. Yakabuski: Would you consider his credentials to be above reproach?

Mr. Hankinson: I just don't know him enough to be able to comment on that. He was not active at the time I became CEO.

Mr. Yakabuski: And what about you, Chairman Epp?

Mr. Epp: I had a good working relationship with Mr. Purchase and I don't think it's my responsibility or job to assess people's character.

Mr. Yakabuski: Oh, we weren't assessing his character, just his qualifications.

Mr. Epp: He's been deputy minister in this province.

Mr. Yakabuski: Are you familiar with the article that he wrote for the Globe and Mail with regard to this government's, I would say, kind of fuzzy energy policy?

Mr. Hankinson: No, I'm not, but I'm sure I'm going to hear about it.

Mr. Epp: Yes, I have read it.

Mr. Yakabuski: You have read it. Are you allowed to offer an opinion? Would you agree with Mr. Purchase's article substantively or somewhat or not at all? He was a Deputy Minister of Energy and a senior public servant for some 30 years, highly respected, that I'm aware of. Would you say that his article is credible?

Mr. Hankinson: I haven't read it, but if you wish to get to your point, we can talk about it.

Mr. Yakabuski: Well, I was kind of asking Mr. Epp because he said he had read it.

Mr. Epp: I have read it. With respect, you made a comment, if I might, right at the beginning that we have a responsibility to supply electricity, and that is true. But I want to emphasize that we have an operational responsibility and we want a clear mandate. We have a mandate and we have a clear relationship with the shareholder in terms of how we will conduct that relationship.

In terms of policy—with respect, I'm not trying to do a fifth on you—policy is the government's responsibility, or the agency's that it has set up to give advice on policy. Our job is to make sure that to the best of our ability the capacity that we have under our jurisdiction—that we fulfill that mandate.

Mr. Yakabuski: I understand that perfectly—

The Chair: Thank you, Mr. Yakabuski. We've run out of time on this round. I'd move to the NDP.

Mr. Howard Hampton (Kenora-Rainy River): Thank you very much, Chair. I want to welcome everyone here from OPG. I'm sorry I wasn't here for the opening round but I'm very happy to be here now.

I want to ask you some questions about your mandate. The memorandum of agreement that you have with the Ministry of Energy specifically says that you will not pursue investment in non-hydro-related generation unless specifically instructed to do so by the Ministry of Energy. Is that my—

Mr. Epp: Mr. Hampton, thank you. It's good to see a neighbour again. This comes out of the Manley report, on which I was a member. At that time, you will recall, we were asked to look at the future of OPG or what its future might be. We came to a conclusion, the three of us, and recommended that OPG was too spread out in the activities that it was engaged in at the time. We strongly supported, for example, alternative energy, but we also did not believe that OPG, which needed to get back to its mandate—or as we simply said, back to its knitting, which was running its plants—that it should be involved

in some of the alternative energy issues. It is from, I believe, that advice that the mandate was structured in the manner in which you read.

Mr. Hampton: I want to be very clear, though. You are not to pursue investment in non-hydro-related generation unless specifically instructed to by the Ministry of Energy.

Mr. Epp: My recollection, Mr. Hampton, goes back to that that was alternative energy such as solar or wind at the time.

Mr. Hampton: Okay. So it's your sense that—

Mr. Epp: With respect, as you will well know, the wind industry was just starting to, I'd say, form a critical mass in Ontario and we thought it was better to leave it to the people who were investing rather than to OPG.

Mr. Hampton: I'm just looking at article 4 of the mandate: "With respect to investment in new generation capacity, OPG's priority will be hydroelectric generation capacity. OPG will seek to expand, develop and/or improve its hydroelectric generation capacity. This will include expansion and redevelopment on its existing sites as well as the pursuit of new projects where feasible."

So in terms of new investment, your priority is hydroelectric generation.

Mr. Epp: If you look at hydro generation and new projects, you will recall—and you represented that area for a long time. When is the last time the old Ontario Hydro did a hydroelectric project?

Mr. Hampton: In my part of the province, they've done a few but they are—

Mr. Epp: Yes, or upgrades, that type of thing. So if you look at today, we're doing Lac Seul. We have been asked to take a look at northern Ontario; we're mapping that, or we are surveying that at the present time. If you're asking us at OPG, would we like to see more hydroelectric development, the answer is an obvious yes. If you're asking us at what price and, you know, what are the conditions that have to go into it to be successful about it, that's what we're now determining. But if you're asking us the simple question, "Would you like to see more hydroelectric development?", it's an obvious yes.

Mr. Hampton: Actually, I'm just interested in what the basic ground rules are. Article 4 says that hydroelectric generation should be your priority. Article 5 says you "will not pursue investment in non-hydroelectric renewable generation projects unless specifically directed to do so by the shareholder."

I'm going to ask you this: Have you been specifically directed to pursue any non-hydroelectric renewable generation?

Mr. Epp: Not renewable. The one that comes to mind that is not renewable on the direction was the Portlands.

Mr. Hampton: Okay, right.

Article 6: "OPG will continue to operate its fossil fleet, including coal plants,"—so "fossil fleet," I take it, would mean coal plants and natural gas, and oil?

1100

Mr. Epp: And oil, at Lennox.

Mr. Hampton: Oil at Lennox—"according to normal commercial principles taking into account the government's coal replacement policy and recognizing the role that fossil plants play in the Ontario electricity market..." until you're told otherwise.

So were you specifically instructed by the Minister of Energy or the government of Ontario to pursue the Portlands?

Mr. Epp: The answer is yes. If you need more colour on that, Mr. Hankinson can give that to you.

Mr. Hankinson: Yes, the OPA directed us to proceed with that at the request of the Minister of Energy.

Mr. Hampton: Again, I'm trying to get the working relationship down here.

Mr. Hankinson: Perhaps I can help with that. When the mandate was put in place, OPG's credibility with the government was not very high. They specifically directed us, as you have just pointed out, to the hydro side of the business. We had, I believe, a lack of credibility on the nuclear front, so they stayed away from that. And clearly on the fossil side, they had their plans in place. So it's not unusual that we were directed to put our effort into hydro.

Mr. Hampton: So you were specifically directed—the Minister of Energy to the OPA to you—to do the Portlands?

Mr. Hankinson: Yes.

Mr. Hampton: And were you specifically instructed to do it in the way that it has been shaped? In other words, it is a joint venture between yourself and another corporation?

Mr. Hankinson: We had established the joint venture relationship with TransCanada back a few years ago, so that was the opportunity that we had to offer, and the OPA seemed comfortable with that. TransCanada obviously has lots of experience in the field of generating electricity by gas.

Mr. Hampton: I want to ask my question again: When the direction came from the Ministry of Energy through the Ontario Power Authority to OPG, were you instructed to undertake this project as a joint venture with the private sector partner?

Mr. Hankinson: Let me put it this way: There was no choice. They were our partner and that was what we had to offer. But it did not cause any difficulty, if that's your question, from either the OPA or the government.

The Chair: Thank you very much. We must move on now. Mr. Duguid.

Mr. Brad Duguid (Scarborough Centre): Thank you very much, Madam Chair. Gentlemen, welcome.

I guess my first question follows up on questions that were asked by Mr. Yakabuski of the official opposition. It would appear that the position of the official opposition at this point is to continue with the operation of coal plants and try to come up with some form of clean coal generation. My understanding of that is that it's based on a technology that really, rationally, doesn't exist at this time when it comes to dealing with things like CO₂ emissions.

What I'd like to get from you today is just your comments on whether in fact clean coal is something that actually exists in terms of a technology.

Mr. Hankinson: As I said earlier in response to a question, when you look at clean coal, you have to be very careful with your definition. CO₂ is not a pollutant; CO₂ is a warming gas. NO_x and SO_x, mercury and particulates are pollutants. It's the pollutants that can be very effectively addressed with existing technology today. There is no really effective way commercially to deal with CO₂ at this point in time. So if your definition of clean coal includes CO₂, then in fact there is no such thing as clean coal other than in pilot projects where CO₂ is captured, sequestered. That is a technology that obviously will be developed over the next number of years and likely will become commercial in years down the road, but not today.

Mr. Duguid: So if we were to base our future energy supply policy on clean coal technology, would you agree that there would be a considerable environmental risk to doing that?

Mr. Hankinson: Risk in terms of capturing CO₂, yes. Risk in terms of capturing pollutants, not much, because today's technology will in fact capture in excess of 90% of the so-called pollutants.

Mr. Duguid: My understanding as well is that the performance in terms of emissions of Ontario's coal plants has improved significantly over the last little while. I'm not an expert on this stuff, but it's always good news when that's happening. Could you comment on how that's taken place?

Mr. Hankinson: Yes. I believe that in 2006 our emissions were the lowest in our recorded history, but perhaps I could ask Pierre to give you a little more detail on that if you'd like.

Mr. Charlebois: Clearly, the emissions from our facilities today are very much lower than they were in the past for the same energy production. There are a number of factors at play here. I think we've talked about those already.

We have installed additional equipment in some of our plants to reduce the emissions. By the way, I should point out that those plants, generally speaking, would operate ahead of the plants without the equipment to control emissions. Additionally, we've put additional money into maintenance of our facilities to ensure that those facilities are operating at peak efficiency and that the performance of the units is good so that we minimize emissions.

Finally, as you well know, demand is down in the province, but also nuclear production is up, as well as hydroelectric production. All of those displace the need for coal generation so that coal generation in fact is down and, as a result, our emissions are down.

Mr. Duguid: I suppose a priority for all of us now is the generation of new supply. When you look at the performance over the past decade, prior to the McGuinty government coming into office, that appeared to be an area that was severely neglected. As we move forward with our commitments in terms of closing down coal

plants, producing alternative sources of supply obviously is a major part of our ability to do that. Can you comment on some of the things that you're doing now to get us into that position, some of the things that we're doing to increase that level of supply?

Mr. Charlebois: Sure. First of all, on the hydroelectric, we're pursuing a number of projects. The Niagara tunnel, for example, will give us 1.6 terawatt hours of additional energy. We have a number of hydroelectric projects. Lac Seul, currently in progress, will bring about 12.5 megawatts additionally. But we're also looking at the Lower Mattagami project, which is an additional 450 megawatts of generation. We are pursuing that right now and getting estimates from our suppliers for this particular undertaking. That's on immediate hydroelectric projects that we're pursuing. We're looking at some longer-term projects as well.

On the nuclear side, as you know, we are continuing to pursue improved performance of our nuclear units. We are targeting about one or two terawatt hours more of production in the coming year coming from our nuclear units. Those clearly will displace some of the coal-generation requirements.

We've looked at the Ontario Power Authority plan as well, the IPSP, because we need to understand the expectations that will be placed on the coal fleet, which we see as a somewhat declining role going forward as new generation in the province, from both OPG and others, comes into play.

Mr. Duguid: Obviously, one of the priorities that the McGuinty government has is looking at clean and green and renewable sources of energy. Hydroelectric power is one of the areas that certainly the Premier and the minister have talked about a great deal as being a priority for us. I understand that our performance has increased substantially in this area over the last little while. Could you comment on that performance, how that's increased and the extent of that enhanced performance?

Mr. Charlebois: We're extremely proud of the performance of our hydroelectric fleet. As Mr. Hankinson commented earlier, we benchmark or compare our performance of the nuclear and fossil, but also the hydroelectric fleet. In fact, our fleet is performing extremely well relative to other hydroelectric facilities.

1110

In terms of availability, I was talking about Darlington at 90%. Our hydroelectric plant will operate at 93%, for example, in 2006 in terms of availability, so very, very high availability. If the water is there, we will use it to run our turbines.

Additionally, we've invested money in upgrading runners in our generators, upgrading the equipment in our power plants, both in terms of improving the efficiency of those units as well as reducing the energy consumption that we utilize in our systems inside our stations.

So going forward, for example, I can say to you that we're looking at about 150 additional megawatts that we expect to get out of our existing units as a result of upgrades and runners and so on over the next five years.

Mr. Duguid: How much time do I have, Madam Chair?

The Chair: You have two or three minutes.

Mr. Duguid: It could be enough time to get this next question answered. Talking about renewable energy, we've certainly made it clear that that's a cornerstone of this government's energy policy and our energy plan. Your mandate says that hydroelectric power is one of your priorities as well, and that's something that I think we've tried to show as much leadership and direction on as we can as a government. What are you doing to fulfill that mandate?

Mr. Hankinson: There are the projects that Pierre has just spoken about: the Mattagami River system upgrade, which will produce some 450 megawatts; Lac Seul, which is currently being constructed, 12.5 megawatts; the diversion tunnel at the Beck complex, which diverts water to the existing Beck complex and will produce, on average, 1.6 terawatt hours a year when complete. These are all the initiatives that we currently have underway in hydroelectric. We're also mapping some of the more northern rivers of Ontario and looking at potential there.

Mr. Duguid: Great. I guess a final question; I think there are a few more minutes left. There's a big difference in terms of the approach that was taken previous to the McGuinty government coming into office and after, I guess, the cleaning up of OPG. How would you contrast the last 10 years in terms of energy generation, supply generation, compared to the last three years?

Mr. Hankinson: I've been with OPG since May 2005, so I really don't want to venture too far back. But it's a different company. When Ontario Hydro was broken up, in 1999, I guess, we became a piece of that through OPG and took over the generating facilities absent the Bruce nuclear units which of course were sold off. Our level, as a generator, would be lower in the last three years than it would have been in the previous 10 years because OPG then did the bulk of the generation in the province. We now produce something like 70% of Ontario's energy.

Mr. Duguid: You danced around that question very, very well. I thank you. It was a tricky one.

The Chair: It's time for us to move on. Mr. Yakabuski.

Mr. Yakabuski: Picking up where I left off—and I perfectly understand your position on policy, Chairman Epp. You are the loyal servants of the shareholder; that is, in fact, your job. But I think it's also fair to say that you are the people most qualified to operate the system or you wouldn't be there. I hardly think that the Minister of Energy knows more about electricity or energy than you people do, or the people who operate those plants. I hardly think that any political person, including myself, knows more about the operation of the system than you people know, because you are the people who are paid to operate them. You are the experts. I understand that you don't want to comment about policy but I think it's fair to say—you recognize when something is right and you

recognize when something is wrong—whether or not you have the freedom to speak out. Would that be fair to say?

Mr. Epp: I have found full freedom in speaking to the minister.

Mr. Yakabuski: To the public?

Mr. Epp: My role is really not a public role. I appreciate what you're saying. If the minister wants advice, he will seek it from many sources; if he seeks it from us, either corporately or personally, I believe we're obligated to give that advice to him.

I'll just put it in these terms: As a Canadian, it is vital that Ontario gets this right. This is 40% of Canada's economy. With respect, Ontario does not compete with India and China; everybody does. But Ontario competes with other people also based in a North American commercial context, manufacturing particularly, and with all respect, I can't comment on policy, but I believe it is that question that people around this table and in the Legislature have to grapple with as they look at the future of energy in Ontario.

Mr. Yakabuski: I noticed that Mr. Duguid was peering into his crystal ball and trying to predict what the policies of the opposition parties might be with regard to emissions etc. One thing we do know, based on fact and history, is that it is clear that the position of the current government is not to reduce the emissions from these coal plants with available technology; they've steadfastly refused to do it. Now they say they're looking at it, but stay tuned till after the election, I'm sure. That is something that we absolutely know and something that we can document and demonstrate. They've said, "No, we're not putting on things that would reduce the pollutants," which they said lead to 665 premature deaths every year in the province of Ontario. The counter is going, I suppose, while this government refuses to do anything with it.

Talking about supply: You guys produce about 70% of the province's power. With regard to the future of OPG, other than the port lands, most of the new projects that have been talked about or proposed or started or completed or are in the various stages—what's the proposed date that you would actually have the lower Mattagami in operation?

Mr. Hankinson: Our projections call for commencement of construction in early 2008; Pierre, can you help me with the completion on that? Is it a two-year project?

Mr. Charlebois: No, I think we're looking at a four-year project here, but it really depends on—

Mr. Hankinson: It'll come on in stages, because there are four plants that'll be upgraded.

Mr. Yakabuski: Are we in a position to have the transmission available? Is it ready, or will it be ready? I know this is not your side of the electricity issue.

Mr. Hankinson: There will be an upgrade required on the line into the Mattagami area. With series compensation, the plan is to upgrade the capacity of the line by some 450 megawatts, which will accommodate the Mattagami development.

Mr. Yakabuski: Now I'm getting back to where I was starting: the supply. It would appear to me, and perhaps you can confirm it, that based on what the government has done thus far, less and less of the electricity generated in the province of Ontario will come under the umbrella of OPG, as almost all of the gas plants that were being developed are not—OPG would not be operating those plants. Is that correct?

Mr. Hankinson: If you go back to Mr. Hampton's earlier question about our mandate and how specific and directed it was toward hydro, I believe that part of the answer to that at the time was that there was not much confidence in OPG on certain other fronts. I think the government's and others' confidence in us has increased, given our performance, and as that happens, I find the government's attitude toward OPG much more relaxed in regard to having us look at other generation projects that come along; Portlands, for example. We're currently thinking of Lakeview. We have been asked to do the EA for new build at Darlington and we are currently looking at refurbishment of Pickering B, all with the support of the government. I think over time our mandate is broadening, although you don't see it in the words in front of you today.

1120

Mr. Yakabuski: Let's switch to some nuclear. When the minister, who was the previous minister and then became the Minister of Energy again—I guess maybe he didn't have his briefing notes with him; I don't know. But when they announced that they were going to build some new nuclear in the province of Ontario—that was last June or so—the press release that day was, "We're going to build two units totalling 1,000 megawatts in the province of Ontario." I'm wondering, do you know of anybody out there who's building 500-megawatt nuclear reactors?

Mr. Hankinson: No, I don't. Just to go back over that for a minute, it was the OPA who determined that there was an additional 1,000 megawatts required, the logic, as I understand it, being that that would maintain the existing level of nuclear capability in the province. It just so happened that the two units that we decided not to refurbish at Pickering would have been 1,000 megawatts. So it was really the difference between the 13,000 megawatts that would be available if all units other than Pickering 2 and 3 were refurbished and the 14,000 limit that was originally there. That's where the 1,000 megawatts came from, as I understand it.

Mr. Yakabuski: Of course, the way I read it was that the minister said, "We're going to build two units totalling 1,000 megawatts." I was curious as to where he was going to buy them. It indicated to me that perhaps the minister himself had a lack of understanding of what the availability and what the technology is today with regards to the building and development of nuclear reactors.

Mr. Hankinson: Obviously, I can't speak for the minister, but the gap was precisely as I indicated now.

Mr. Yakabuski: I'm just wondering how you can speak for that, how you can sort of understand his

thought process, but you can't comment on the fact that he actually said we're going to build 1,000 megawatts, two reactors.

Mr. Hankinson: As you may know, in the EA that we're going forward with at Darlington, we're looking at up to four units in a technology-neutral way. There are some units out there where one unit will produce 1,000 megawatts. It depends a lot on the technology that you choose.

Mr. Yakabuski: Let's talk about nuclear, then. The government says we're going to build 1,000 megawatts of new nuclear power. They can't seem to make up their minds: "Well, we're closing those coal plants"; "We're thinking of closing those coal plants"; "We're still committed to closing those coal plants." But at some point, they're going to have to close anyway; they'll be worn out. Given that at some point the existing coal plants won't operate, where do you see us with 1,000 megawatts of new nuclear? Is that adequate?

Mr. Hankinson: That really isn't a determination to be made by OPG. The OPA has the responsibility for the supply-demand equation. They are the ones who are currently doing all of the studies. We will do what is required of us in the OPA determination.

Mr. Yakabuski: I realize that, and that's going back to Mr. Epp's position. But you do produce 70% of the power in the province. I'm sure you do projections on a regular basis as to what the demands this year, next year, five years from now or whatever are going to be. If you knew that on a certain date those fossil plants are closed—and you also have a pretty good idea, I would think, of the ability to produce power from other sources—in your opinion, is 1,000 megawatts of nuclear going to be adequate, say, in 2014?

Mr. Hankinson: There is flexibility in the EA, as I've already indicated, for up to four units at Darlington. That's not our call, though; that's very much the OPA and, depending on what other generation supply projects they may be looking at, may require more or less of OPG. We can't determine that.

Mr. Yakabuski: The location of this said new nuclear: We're hearing various stories, rumours, positioning; everybody's got an idea of where it should or should not go. I guess one question that I'd have is about the AECL facility at Chalk River and the decommissioned reactor at Rolphton. Would Rolphton be a suitable place to build a nuclear reactor?

Mr. Hankinson: We've looked at the potential sites and have concluded that in our judgement Darlington is the best place from an overall point of view to have these units. You must look at the transmission system as it exists today. You need a willing host community. We have that in Darlington. We have the skills, and as Pierre has just mentioned earlier, Darlington has had an operating rate in the 88% to 90% range for the last couple years. So we feel pretty comfortable that Darlington is the right place from OPG's perspective.

The Chair: Thank you very much. We've run out of time. It's time to move on. Mr. Hampton.

Mr. Hampton: I have a few more questions I want to ask you about your mandate. You indicated in your 2006 financial report that you are exploring the possibility of building a natural gas power plant on the Lakeview site.

Mr. Hankinson: Yes.

Mr. Hampton: Has that been mandated by the Minister of Energy?

Mr. Hankinson: We were asked to look at the prospect of doing a gas plant at the Lakeview site and we have done that. We have done it in conjunction with Enersource, which is the old Mississauga Hydro, and we do have a joint venture arrangement with Enersource that if we are to build on that site, they will be our partner.

Mr. Hampton: So you were directed by the Minister of Energy to—

Mr. Hankinson: To look at the opportunity; to explore it.

Mr. Hampton: Can I ask you, what form did that direction take?

Mr. Hankinson: It came in the form of a letter.

Mr. Hampton: As I understand it if I read section B of the mandate, Governance Framework, article 2 of section B, “The shareholder may at times direct OPG to undertake special initiatives. Such directives will be communicated as written declarations by way of a unanimous shareholder agreement or declaration in accordance with section 108” of the Ontario Business Corporations Act “and be made public within a reasonable timeframe.” So that’s how these directions have to come?

Mr. Hankinson: Normally they do if we are being directed to do something that we don’t wish to do for narrow commercial purposes. In this case at Lakeview, it’s very much in our interests and desire to do a project. So if we get a letter from the minister suggesting that we should look pretty hard at our capability of doing that, we’re all for it.

Mr. Hampton: In this case you got a directive?

Mr. Hankinson: No. We have a letter that asks us to look at the prospect of doing a site. It would be the OPA who would ultimately give the directive to proceed in this case.

1130

Mr. Hampton: So have you received any directives like this, either a unanimous shareholder agreement or a declaration? Have you received others?

Mr. Hankinson: Yes, we have. They are posted on our website when we receive them.

Mr. Hampton: When you receive them?

Mr. Hankinson: Yes.

Mr. Hampton: Because it says they will be made public within a reasonable time frame.

Mr. Hankinson: I believe we post them very quickly. We’ve had, I think, three or four directives at this point.

Mr. Hampton: So you have directives. Then you’ll get letters from the minister indicating that the government would be pleased if you would undertake X or if you investigate ABC?

Mr. Hankinson: We did have a letter in the case of Lakeview, yes.

Mr. Hampton: Have you received other letters indicating where you should be focusing your efforts?

Mr. Hankinson: I believe our advice from the government with respect to new build for the EA came by way of letter. Pierre?

Mr. Charlebois: That’s correct, yes. The request was to start the environmental assessment process on the existing, established site for a potential new, future nuclear.

Mr. Hampton: So that was by letter; that wasn’t by directive?

Mr. Hankinson: That’s right. Where we get pretty sticky about having a formal directive is in the those few instances where we don’t believe that it’s a commercial project, and therefore we request formally that they follow section 108 of the Ontario Business Corporations Act.

Mr. Hampton: I think you probably know what I’m getting at here. On the one hand, we’re told you’re supposed to be a business corporation, but on the other hand—

Mr. Hankinson: Yes, but I don’t believe that’s inconsistent. What I’m saying is that there are certain areas where we would like to proceed—for example, we want to proceed with new nuclear. There’s no reason we would object to that, so if I get a letter from the minister saying, “Go ahead and do it,” we go ahead. If we get asked to do something that we don’t believe is in the best commercial interests of OPG, then we formally request a directive.

Mr. Hampton: And it’s your discretion to post the directive? Is it discretionary for you to post the directive?

Mr. Hankinson: It was by our choice to post the directives, because normally, if we get a directive, it will mean that we’re being asked to do something that we don’t believe is in the best interests of OPG from a commercial point of view. And if you read the preamble to our mandate, it says that we are a commercial organization, we are to operate as one, and indeed we have a fiduciary responsibility to operate that way as an OBCA company, so if we are getting a directive that we believe not to be in our best commercial interests, the government has every right to do that but to do it by following the formal process of a section 108 directive.

Mr. Hampton: So let me ask you, what’s your relationship with the OPA? Is the OPA, for all intents and purposes from your perspective, an arm of the government? In other words, if the OPA says to you, “We’d like you to do thus and so,” if you don’t think it’s a commercially viable operation—how do they interrelate with you? Do they send you directives?

Mr. Hankinson: There are a number of agencies that are in place and we work within that framework. If we are formally directed to do something and it’s done in a proper manner, we will honour that directive.

Mr. Hampton: So have you received directives from the OPA, separate and apart from letters or directives from the government?

Mr. Hankinson: Most directives—well, I believe all directives now—would come through the OPA. The reason, perhaps, our original directive may have come directly from the Minister of Energy was that the OPA did not exist at that time.

Mr. Hampton: So conceivably you could now get a directive from the government, from the Minister of Energy, and you could get a directive from the OPA. The fact that the OPA is now there does not then somehow remove the Minister of Energy from the picture? You could get a directive from the Minister of Energy and you could get a directive from OPA?

Mr. Hankinson: No, I believe it would be more in the line that the minister would be at one remove. He would direct the OPA, which would, in turn, direct us. That's part of their mandate, the OPA.

Mr. Hampton: But it's conceivable you could get a directive directly from the minister.

Mr. Hankinson: Anything's possible.

Mr. Hampton: I'm talking about the legal framework here.

Mr. Hankinson: I don't know about the legal framework. I would have to take advice on that, but I would normally now expect, with the OPA in the equation, that the directive would go from the minister to the OPA and OPA to OPG.

Mr. Hampton: You mentioned in some of the answers that were given earlier that you're in constant talks with the Ministry of Energy on issues related to your mandate.

Mr. Hankinson: I'm not sure I said that.

Mr. Epp: You'll have to help us on that; I'm sorry.

Mr. Hankinson: Either our memory is short or we don't remember what we said.

Mr. Hampton: Research folks who work for the committee submitted a number of questions to you, and I believe the response to question 7 was that you're in constant talks with the Ministry of Energy on issues related to your mandate.

Mr. Hankinson: We do have open dialogue, at various levels within our organization, with the ministry. We co-operate fully in that regard.

Mr. Hampton: How long is your current memorandum of agreement in effect?

Mr. Hankinson: How long has it been in effect?

Mr. Hampton: Is there a timeline on it?

Mr. Hankinson: I don't believe so, no.

Mr. Hampton: So when you say you're in discussions with the ministry about your mandate, are there areas of your mandate that you believe should be changed?

Mr. Hankinson: No, but as I indicated earlier, as we at OPG gain credibility we are being asked to take on more and more in terms of generation that was not initially contemplated when that memorandum was put in place.

Mr. Hampton: Just so I'm clear, how long are you before the committee? Until when? All afternoon, all day or just until noon?

The Chair: Until noon.

Mr. Hampton: Do we have another round?

The Chair: We have individuals speaking this afternoon about OPG.

Mr. Hampton: But will we have another round with OPG?

The Chair: Thursday morning for one hour, which is really designed for them to respond to the people who—

Mr. Hampton: I have a lot more questions, but I want to ask you this question. As you would appreciate, because I think you read the newspapers as much as we do, there has been some controversy about things like pay, pensions, perks etc. It was the government's position—the former Minister of Energy said that she called folks together from the various hydro agencies to review these issues. I guess this is really a question for you, Mr. Epp, although, Mr. Hankinson, you could jump in if you'd like.

Many of us were confused because what we got was that there was a discussion, a review, and then it was only a short time after that that the issue of pay, perks and so on became a public issue in the papers again, but not necessarily with your agency. Can you tell me: What was the content of this review of pay, salaries, perks, pensions, bonuses etc. that apparently happened?

Mr. Epp: Mr. Hampton, if I might, this might take a little while and it's a valid question. Before you came into the room, Mr. Hampton, I introduced Bill Sheffield, who is the chair of our HR and comp committee. If you don't mind, I would prefer if I as chair and Bill as chair of the committee would answer the compensation questions rather than the individuals involved.

Mr. Hampton: Sure.

Mr. Epp: I'm not trying to bypass your question. Let me start out this way and then I'll turn it over to Bill. There will be a couple of factors, and I'll go over them quickly to give the context, and then you can ask the questions.

When some of us took responsibility on an interim basis at OPG, a number of things had to happen. The first thing that had to happen was, how do we gain back the public's trust? Only time does that, but there had to be some immediate actions. Number one, on perks: The perks that existed—not all of them, but a lot of them, such as golf memberships—and OPG had a fairly, shall we say, attractive stable of memberships on various golf courses. I eliminated all of those. The issue of boxes at the ACC, at the Rogers, at Stratford, at Shaw, you name it: I eliminated all of those. I just felt that we had to take some action quickly.

1140

Secondly, from 29 executives we went down to 22. That reduced the payroll on the executive floor by 11%, which is still in existence. We then froze those salaries; we froze the bands. LTIPs, long-term incentive plans, were eliminated. So there were some things, and there are others, but those were done up front and quickly.

When the board was established as it was, we said we had to have good governance and good benchmarking in

relationship to salaries. There, if you don't mind, I'll turn to Bill, and then you'll probably have not the whole picture, but at least the outline of what was done.

Mr. William Sheffield: Let me start by answering your question about the conversation with the previous minister. The chairman and I both went and met, as was explained in the House, and we explained how the system works, what has been done to date, what we do to make sure the decisions we are making are the right ones. I'd be happy to give you a snapshot of how that all works if that would be helpful at this point.

The Chair: We are under constraint of time, so I'd just ask you to make your comments—

Mr. Sheffield: Quickly? Okay.

The Chair: Thank you.

Mr. Sheffield: We're actually glad you've asked about the issue because it's difficult for all the people at OPG to be listening to this conversation, which indirectly affects them. The way I would best put this is, when the new board was put together and we put together the appropriate independent compensation committee, we then went out and decided to hire an external adviser. We interviewed a number of them; we picked Mercer.

We asked them to go back and look at everything that's been looked at before and compare the salaries we paid to the executives to two different benchmarks. One of the benchmarks is the general private sector, because we do compete for some of those executives—certainly some of them. Second was the utility sector. The utility sector is made up of all the names that you would have seen in the press. You may have actually used some of them: Manitoba Hydro, Quebec Hydro, BC Hydro. It also includes the other private sector players in the same space such as Adco, Fortis and TransAlta.

We compared to both of those to see how we do because we know full well that what we need to do is retain and recruit the best but at the same time recognize that the people we're serving through the current shareholder, whatever government is in power, are the people of Ontario. So we target ourselves to be as close to the utility sector as we can but pay enough to bring in the best people. So if you look at where we actually are, we would have ourselves at a little bit above—we target to be at about the 75th percentile of the utility sector, which would put it near the top of other publicly owned enterprises, other utilities, but at 50% or below in the private sector. In fact, if you look at our very senior executives, we do well in the cash compensation, which is basically the base salary plus the annual bonus, in being competitive. We have a little bit better pension plan, but we have no long-term incentive plan. So if you actually look at our top executives, they bring in, in total compensation, probably about half of what they would in the private sector.

We have a number of graphs that we showed to the minister. We'd be happy to share them with this committee if you'd like to do that, or if you'd like to talk to the experts who know the markets best. But that's what we do. Our people are paid well, yes. Are they paid

above market? No, they're paid below private sector market, but at the top of the utility sector because it has the most complex and most important assets in the business.

The Chair: Thank you very much. We need to move on. Mr. Leal.

Mr. Leal: Mr. Sheffield, if you'd like to continue, because this is an area I can assure you that from time to time constituents phone me about—and, I'm sure, all my colleagues here today. I'd like to give you the opportunity to add to your answer to Mr. Hampton's question. It's an area that the public really needs to understand—this issue on compensation.

Mr. Sheffield: Let me make a comment, and I don't mean this to sound flippant. My mother never understood why I got paid as much as I did as a CEO. The only reason I'm saying that is because there's no reason in the world that all of the people in Ontario should like the fact that there is an executive talent marketplace.

Mr. Leal: I understand that.

Mr. Sheffield: But, unfortunately, it exists. So the board's job is to make sure we retain and recruit the best people. We can't ignore it. We can't wish it away. We can't have it go away with government decree. So we deal with it.

If I were in a debate and you would say to me, "Please, make everything match BC Hydro and Quebec Hydro," I would say, "Well, that's being selective in who you compare to." I could also use a comparison using Alberta's energy sector or the US power sector. Then we wouldn't be talking about CEOs' salaries around a million and a half; we'd be talking \$5 million, \$10 million, and all of us would be getting tomatoes when we walk outside the door.

So the reality is, we've tried to pick what we think are benchmarks that make sense, but we have to make sure we have the best people. Nobody has nuclear assets that are anything like or as critical as the ones in Ontario, so we have to have the best people.

The other market that we don't benchmark directly in our philosophy but we have to watch closely is the US. The market for nuclear executives is very thin. We basically have OPG, Bruce Power, and that's kind of it; a little bit in New Brunswick, a little bit in Quebec. But it's basically US. So we're always cognizant of the fact that the US, with their renaissance in nuclear, is looking for talented people, and they're ours.

Just to give you a sense—let's not talk about the executives—it takes 10 years to get a nuclear operator trained so that we feel comfortable having them run the show. So you can imagine: You can't have a learning executive in charge.

Mr. Leal: Thank you very much for that very full explanation.

If I could continue with a question to Mr. Hankinson, one of the things I heard—I guess about a year ago; I think it was in a presentation by executives from AECL. Could you confirm to me that the last four projects that AECL had in China were on time and on budget?

Mr. Hankinson: I'm told that that's the case and I have no reason to not believe that to be true.

Mr. Leal: Do you get a chance to review, from a financial and construction aspect, those projects to assist you as you go forward in terms of the plans for Darlington and the expansion at Darlington?

Mr. Hankinson: We're looking at a lot of major capital projects under way all over the world, not just nuclear. We're trying to find out: For those that go off the track, why do they go off the track? We're wanting to learn from those lessons. For example, we've talked to Boeing; we've talked to nuclear operators. We will look at those issues that cause projects trouble. How will we proceed if we're asked to new-build or to refurbish existing plants? We will not be like the old Ontario Hydro, which did design-build and construction on their own. We will be managers of projects and we will be looking for turnkey operations whenever and wherever we can get it to pass the risk on to those who will actually be doing the work. So that's our approach. We no longer have the huge construction capability that Ontario Hydro had in the past.

Mr. Leal: If I could continue with my next question through to Mr. Epp: Mr. Epp, I know you are very interested in First Nations as a former Minister of Indian Affairs and Northern Development during your cabinet time in Ottawa. Could you share with us this morning your work with First Nations communities in northern Ontario in terms of partnership to develop some hydro-electric opportunities?

Mr. Epp: I'll be very specific. If any success has been realized—and there is, and I'll point it out—it's the people at OPG. I don't think I have to tell you and others who have represented northern Ontario for many years in the Legislature that the relationship between the old Ontario Hydro and then OPG and First Nations at best has been one of antipathy, of wrongs not righted. If one is going to follow a mandate of developing hydroelectric power in Ontario—the point that Mr. Hampton highlighted in his questions—you've got to change that relationship. Those of us who have a little bit of experience in that area know that there has been a renaissance in First Nations of Canada. Today we have celebrations of business success among the First Nations. We have people in the universities and colleges. This sounds like an old guy speaking, but back in 1979 we literally counted the number of people we had of First Nations background in post-secondary education. If I can be very specific, I remember hiring Roberta Jamieson, who was just new, coming out of university. All that has changed. There's expertise, there's knowledge in First Nations.

1150

Secondly, we at OPG had a change. OPG has changed now that we've got a very active First Nations secretariat, if I can call it that. They're in negotiations. We know that Mattagami will not be developed without an arrangement or agreement. Also now, in some of those agreements, they'll not only look at past grievances that haven't been taken care of, but can they be a partner for the future?

I'm hopeful; I'm hopeful for many reasons, not least of which is that I think it's more often attitude in these things that can give you a change of atmosphere than actual facts. But I'm glad, whether it's Lac Seul, whether it's Mattagami, whether it's what we're doing now with Moose Cree or with the others, that if we're going to get that development, First Nations are going to be part of it.

Mr. Leal: If I could continue—

The Chair: One minute.

Mr. Leal: —one minute—Chairman Epp, the Auditor General reviewed some activities with OPG. Our government provided him with the powers to lift the veil and look at a number of things. Could you indicate to this committee this morning your response and your ongoing response to the auditor's findings?

Mr. Epp: Yes, I can. I was smiling when Mr. Hampton said, "What other communication do you have with the minister?" I got one this morning by letter. He said, "Jake, I hope you are following the Auditor General's report and implementing its recommendations."

The answer is yes to all those questions. Jim and others—Donn and the people who have these responsibilities directly—have looked at every one of the recommendations and are implementing every one of the recommendations. I might even say—Jim might not like this—that we went too far, but in order to be responsible, that was done: employee recognition, for example. I have no question that the Auditor General's report is one that we accept, one that we have been studying and one that we're implementing.

The Chair: Thank you very much. Mr. Yakabuski?

Mr. Yakabuski: This is likely the last round, then, is it?

The Chair: Yes.

Mr. Yakabuski: You said in your earlier statements, Mr. Hankinson, that at OPG you believe that it's very important to do what you say you will do. Not that you have any interest, but I can assure you, you have no future in the Liberal cabinet.

But anyhow, on the—

Mr. Epp: I'm sorry, sir, he's not available. He's at OPG.

Laughter.

Mr. Yakabuski: I know that. Given the on again/off again, the to-and-fro and the complete backtracking on so many of their energy policies, now I want to talk about the nuclear policy. Let's assume that Darlington was approved as the site for the 1,000 megawatts of nuclear power. How would you put 1,000 megawatts of nuclear power at Darlington?

Mr. Hankinson: If I may, I'll ask Pierre to speak to that.

Mr. Charlebois: As we discussed earlier, our initial application for the site preparation licence indicated that we were looking at up to four units. We did not get any direction from the government in terms of actually proceeding with any projects or any construction at this point in time. Our direction from the government is purely to begin the environmental assessment process on

an existing site. For us, Darlington is the preferred site, as Mr. Hankinson outlined. At the present time, what we are doing is the environmental assessment work for up to four units, being very clear that currently the maximum allowed in Ontario for nuclear generation would be limited to 14,000 megawatts. What we are doing is creating options and alternatives for ourselves and for the province and for the OPA for the future. We don't have any mandate or any direction to actually start any construction.

I think you may be aware that at the same time we are considering the feasibility and the commercial business case for a life extension of Pickering B. In the event that a decision is not favourable on Pickering B, one of the alternatives would be to potentially utilize some of that space that is available at Darlington for extra construction.

In essence, I think it's way too early to talk about how we can build 1,000 megawatts and, "Is there such a reactor out there?" There are reactors of that size, yes, but we will examine the different technologies, the different sizes, the economics of those, in our consideration. The discussions around how many and what size and so on are for down the road, not for right now.

Mr. Yakabuski: A single reactor of 1,000 megawatts wouldn't currently be available from AECL, so what would the options be?

Mr. Charlebois: You're correct in saying that the Candu 6E from AECL is obviously a smaller reactor of about 700 megawatts. The new advanced Candu reactor, which is on the drawing board at this point, is slightly larger than 1,000 megawatts. There are pressurized water reactors. The standard nuclear power plant being built in Korea is in fact 1,000 megawatts. So there are 1,000-megawatt reactors that are available, and that's one that is on our list of technologies for consideration.

Mr. Yakabuski: If Darlington was chosen as the site, do you have a preference with regard to the technology, given the fact that all of your reactors today are heavy water reactors, AECL Candu reactors? Do you have a preference as to what would be the reactor choice of the future?

Mr. Charlebois: First off, part of the direction that we received from the government in looking at this was—and I think you're aware—that they are interested in seeing Canadian technology and so on being considered in the process but they want to make sure that we get the best value for the people of Ontario. So the process that we have launched, in effect, will examine the various technologies.

Mr. Yakabuski: I'm asking if OPG has a preference.

Mr. Charlebois: No. Right now we are conducting an objective process to look at the alternatives, the benefits and so on. I can assure you that our employees clearly know the Candu technology well; we have a lot of confidence in that technology, and many of our employees would like us to continue to use that technology on the project. We at OPG are looking at the alternatives very objectively.

The Chair: We've run out of time. I want to thank you for coming this morning and giving us some insight. We will recess until 1 p.m.

The committee recessed from 1201 to 1304.

SOCIETY OF ENERGY PROFESSIONALS

The Chair: Good afternoon. I'd like to call the committee to order. This afternoon we are pleased to welcome members of the Society of Energy Professionals. For the purposes of Hansard, I'd ask each of you to introduce yourselves. You will have 15 minutes in which to make your presentation, and that will allow for a five-minute rotation amongst the parties here. Please begin.

Mr. Andrew Müller: Thank you, and good afternoon. My name is Andrew Müller. I'm the president of the Society of Energy Professionals. I have a number of our members here with me today, both at the table and in the audience. To my right is Lanny Totten, who is a vice-president of our organization and is elected by the members from Ontario Power Generation. To my left I have Joseph Fierro, who is one of our elected reps from OPG, and Joel Barton, who is also an elected rep from OPG.

I was reminded that while all four of us are actually OPG employees, we are here today speaking on behalf of the members from our union and not the company, so we will try to restrict our comments to our opinions as union members and not as employees. I'm not a stranger to this committee; I was here when you were reviewing Hydro One and I ran out of time, so this morning I'm going to talk quicker and flip faster.

Just quickly running through the slides, we represent over 7,000 professionals—scientists, engineers, supervisors, IT professionals and so on—in the electricity industry, at most of the major companies that are in this industry, whether it's Ontario Power Generation, Bruce Power, Hydro One, the IESO and so on. Our members work in all aspects of the industry, whether it's design, build, operate, maintain, provide consulting and professional services, and so on. It's particularly because of our expertise and our professional ethics that we feel it's important for us to speak out and to maintain our ability to speak out on issues around electricity.

One of the common themes I think you'll see throughout the presentation—and we heard some of that in the questioning this morning—is around the mandate of OPG and whether it's a private company that's operating to make money or whether it's a tool, an arm of the government, to implement social policy. I think that's really the key question in all of this.

Back in 1999, as we discussed this morning, Ontario Hydro at the time was broken up through Bill 35. OPG's mandate at that time was to reduce their share of generation in the market. This resulted in a number of changes in the company, including the sale of the Mississagi River plants—there are four hydroelectric plants on the Mississagi River—and the leasing of the Bruce nuclear power facility.

We wanted to point out that those facilities are costing more now to the ratepayers of Ontario because of the price for the electricity they receive as compared to what Ontario Power Generation would have received if our company still owned those facilities. It gives you just a sampling of the cost of electricity and the impact that restructuring has on the price of electricity.

OPG was also forced by this situation to look at spinning off businesses, departments in the former Ontario Hydro that serviced all of the generating facilities. For that reason, it then became more prudent for them to spin off these organizations so they could continue to service the now private organizations. The information technology department, our research division and our nuclear safety department all ended up being spun off into separate companies.

This era of turmoil obviously caused a lot of strained labour relations, a lot of difficulties for our members, employees of the company, as they went through restructuring and downsizing and so on. But finally, in 2004, things began to stabilize. OPG's mandate was more consistent and I think things were becoming better for the company and for our members as a whole.

Recently, we've signed a five-year collective agreement with OPG, which we think is a testament to a fairly strong relationship between our union, our members and the company. We think the current situation is a fairly reliable producer of power, an improvement in the health and safety record and so on.

Looking back, in the years prior to now, OPG was covered by the market power mitigation agreement, which is an agreement that basically capped the revenue that OPG was able to retain from the sale of electricity. During the period, they paid almost \$4 billion in rebates to the ratepayers of Ontario, because the price of electricity was higher than OPG was allowed to receive for their electricity.

In April 2005, based on a return on equity of 5%, OPG paid \$740 million in the last nine months, again to protect consumers from the high price of electricity. That, I think, goes to the social policy mandate that OPG, and Ontario Hydro before it, had. I actually think that's a good thing. I think our organization thinks that's a good thing: that OPG is helping keep the price of electricity low for the people of Ontario.

Again, by comparison, if you look at the nuclear side of the business, Bruce Power's A units are receiving \$63 per megawatt hour, whereas the Pickering A units are receiving \$49.50 per megawatt hour. Strictly based on price, obviously OPG is able to continue and make it go at a much lower rate, and that, when blended into the overall price of electricity, helps the ratepayers.

Now, the difference in this is had OPG been paid \$63 per megawatt hour instead of \$49.50—obviously this is a huge source of revenue and was discussed this morning—it could be money that OPG could use to invest in other projects, be they hydroelectric projects, scrubbers on coal-fired plants etc.

Currently, the rates that OPG receives are capped for essentially their baseload hydroelectric generation and for their nuclear generation. Hydro is regulated at \$33 per megawatt hour and nuclear is regulated at \$49.50. Essentially, the peaking hydroelectric power and the fossil generation are capped at \$47 per megawatt hour. These prices put a limit on what OPG can do as a business. While they are incorporated under the Business Corporations Act, they have to make decisions based on the money they are going to receive for the generation, and that limits what's available to them.

1310

Getting more specifically into the various lines of business: In the hydro business, we think probably the most meaningful relic from the Ontario Hydro system was their motto. I gather there are a few spelling mistakes in our Latin translation, but essentially the motto was, "The gifts of nature are for the people." I think the Ontario public sees that our river systems and hydro plants really are taking advantage of the gifts of nature, and that should be for the people of Ontario.

OPG operates 64 hydroelectric plants, almost \$8 billion worth of assets, and 7,000 megawatts of capacity, and these are very affordable to run, maintain and operate. In fact, before the breakup in 1999, many of the plants had zero dollar value on the books because they had long been paid for, but obviously they are priceless as assets to the people of Ontario.

OPG has improved and continues to improve relations with the aboriginal people. Many of these plants are located in their areas, and many of the new opportunities for hydroelectric plants are located either close to or on First Nations land. I think you heard this morning that OPG has made major steps in improving relations to allow for further development and further opportunity, something that we strongly encourage.

The question that came to our mind was how to keep our hydro system healthy. The biggest concern there is the revenue that OPG gets for their power. Part of what goes into the cost of the power is a gross revenue charge for the users of water, whether it's from the lakes and so on. Our concern is that the charge puts large projects at risk. Large projects have to pay more for the use of the water and that obviously impacts on the economics of the operation.

We're concerned about power purchase agreements and the need for them, because Ontario Power Generation in a lot of instances is forced to bid their electricity on the market, and that gives price uncertainty. Therefore, it's hard to come up with a business case to justify new projects if you don't know what price you are getting for the electricity. If the government is interested in pursuing more hydroelectric projects, providing some stability and some knowledge of what the price will be would greatly assist OPG in pursuing those projects.

There are up to 3,024 megawatts of potential development out there and 500 megawatts of pumped storage capacity available if the economics are right and we can pursue them. Some of the major sites are the Upper

Mattagami, Lower Mattagami, Albany, Little Jackfish and the Severn River. There's been much talk about an east-west corridor for transmission through the province. There would be a lot of synergies between a corridor such as this and development out of these hydroelectric sites. Many of these sites are in northern Ontario and one of the major issues is to get the transmission down to where the load is, primarily here in Toronto. An expanded grid would greatly help that and enable those projects.

Fossil generation: As we heard this morning, the current mandate is to operate all the coal plants until instructed otherwise. OPG is meeting the environmental regulations, but there are concerns about how they could improve the emissions from these plants if there was money to do so, and also an opportunity to improve their reliability and efficiency if the plants had a future and if there was a case to invest in those plants. OPG is maintaining the flexibility to operate these plants according to the shareholder's directions.

OPG, as we heard, was recently asked to look at development of a gas plant at the former Lakeview coal plant site.

Some of the issues we see with the fossil generation: It plays a critical part in the energy mix of Ontario. Our recovery from the 2003 blackout was in large part due to the ability of our fossil plants to bring on power and get the grid back in business.

I'll note that our fossil plants were essentially a \$224-million asset that was written off when they were told to close the plants. That just gives you a sense of the value these facilities have to the people of Ontario if we were able to use them.

The current thought from the integrated power system plan is that coal plants need to continue to operate beyond 2014, and we're very much of that view. These plants are critical to keep open for backup, for support during outages and so on. There are not enough funds currently to keep the facilities operating in the current circumstances, and that's a big concern for us. OPG needs more revenue if we are to keep these plants open and operating and to keep them as clean as possible. We heard this morning that, as time goes on, emission limitations will constrain OPG's ability to generate.

Moving on to nuclear power plants—refurbishment of Pickering, for example—we strongly believe that Pickering B should be refurbished. That will extend its life out some 30-odd years. We think it's a very positive thing for Ontario and for the electricity system. OPG, as you heard, is going through the process of hearings to get approvals to do this and we think it's very key to that that we get on with that decision. Darlington also needs to be looked at, and timing is critical for all these plants to be able to do that refurbishment.

The rationale for Pickering, we believe, is good. It's cost-effective against other options and very good on the environmental side of the equation—no greenhouse gas etc. There is local community support. We have existing transmission lines there that make sense to do this

project, and Pickering is a \$440-million asset that should be preserved and used as much as possible.

There was talk again this morning about new nuclear power. We are strongly supportive of the next plant being built at the Darlington site, for a number of reasons: strong support from the community, existing facilities and transmission capability. We think both for reasons of supplying the load and for the speed with which it can be done that Darlington is an obvious site. We're also very supportive of the Bruce nuclear site as another location for a nuclear plant, but there are some issues that need to be addressed there, which is the only reason why we put that second in the scheme of things as far as the timeline is concerned.

What's critical to any new nuclear power is a strong and consistent direction from the government. There is a lot of news and stories about why Darlington was delayed and why it was so expensive, but I think the single biggest factor was different decisions, different directions given to Ontario Hydro at the time regarding the construction that had a tremendous cost impact.

The society, as an organization, fully supports the use of Candu-designed reactors supplied by AECL. We're very proud of our members' performance in AECL and their ability to complete projects on time and even under budget. We think that experience can be easily translated here to Ontario, where we're closer to suppliers and closer to an industry that's very familiar with that. We think it would be a great thing for the economy and a great thing for Ontario.

Obviously, one of the questions that comes up when you talk about nuclear power is nuclear waste. Our members have spent a long time working on this subject, have done a lot of research and done a lot of support. We believe there are technical answers out there for the safe storage of low-, intermediate- and high-level nuclear waste. It has now become a political decision that the federal government has to make. I'm sure you are aware that there were hearings by the Nuclear Waste Management Organization into this. There are other jurisdictions, other countries, that are dealing with the issue, and it's now a political one.

1320

To just quickly wrap up, as a union, one of our major concerns is labour relations and the shortage of skilled people. We think things are improving at OPG, but there's more to do, and we'd like to work with them to improve the environment at OPG.

The Chair: Thank you very much. We'll go in rotation. I think we started with the official opposition this morning, and so we'll move, in starting this afternoon, to the NDP.

Mr. Hampton: I recognize I only have a couple of minutes. So one of the issues that your members would see close up is the fact that, for example, on the nuclear front, Ontario Power Generation gets a certain rate for generating electricity. The nuclear plant that's run by Bruce Nuclear gets a much bigger rate. Let's say, in terms of hydroelectric power, you get a certain rate.

Those companies like Brascan which now own hydro stations get a much higher rate. What impact has that had in terms of the work that you do and the prospects for work down the road?

Mr. Müller: I think first of all it's a testament to our members and their company's ability to turn a profit under tougher circumstances. Obviously, with the capped rates, OPG is still a successful company. That's a good thing, but clearly that limits their ability as a company to invest in things that aren't clearly a direct payback, whether it's environmental controls or pursuing new developments and new projects. That cap on their revenue makes it difficult to justify and difficult to pursue new generation, for example.

Mr. Hampton: In the drive to privatize Ontario's hydroelectricity system, a number of things were in fact privatized, so I understand that information technology, research and nuclear safety are all now run by private entities. Yet you have members who continue to work for those new profit-driven private entities. What do you see happening there? Has this experiment worked? Whom has it worked for? Whom hasn't it worked for? Do you have a sense of it?

Mr. Müller: We were very concerned about that trend when it was happening, and we remain concerned. There's a certain line of logic that seemed to make sense if you were going to take OPG down to 35% of the generation in Ontario. That meant a number of the plants would somehow be sold off to private companies, and therefore there might be some efficiencies in an IT department's being able to service all of those plants, as they did under Ontario Hydro, but now as a separate entity.

That never happened. As you heard this morning, we're at about 70% of the generation in Ontario. The business driver that would have said they should have been privatized so they could service a number of different independent plants is no longer there; it actually never came to fruition.

So from our perspective, this isn't good for our members as employees of these companies. Their businesses hinge strictly on OPG or Hydro One, for example. There aren't the efficiencies. We see to some degree some duplication in those companies because it's difficult, when you outsource a key service, to trust a private company to provide you with what you need, so as an organization you tend to rebuild to some degree your own capacity to do that work. So I think it's costing more, I think it's putting some risk in the supply of that service, and we don't think it's a good idea.

Mr. Hampton: You mentioned that one of the things that OPG is looking at is, of course, more hydroelectric power, but you also mentioned that, from your perspective, what OPG needs to see is a power purchase agreement or a regulated rate that is dependable or where we have some knowledge going in. Why is that important in the current context that OPG operates in? Why is a guaranteed rate or a power purchase agreement important?

Mr. Müller: OPG, in our minds, is forced to wear two hats simultaneously. On one hand, they're an arm of the government and implement decisions or directions the government is interested in doing. Oftentimes, that's a very good thing. At the same time, however, they're forced to participate in what's called a hybrid electricity market, where they have to bid their electricity and run the risk that the price may be low today as compared to tomorrow. It becomes very difficult to pursue these options and take these risky ventures when you're not certain what to rely on if you're going to get another direction from the government to do something different from what was in your plan.

A completely independent private company can assess the risk on one level and determine the sort of project they're going to pursue, and they may win or lose in that assessment. But they're not suddenly given a direction to do something else that has an impact on their business plan. On the other hand, a government agency, with the backing of the government, can decide to pursue a venture, and if there's a change in direction, the government makes that decision based on the economics, and it may still be the right thing to do even if it costs money.

OPG has to play both sides of that, and I don't think it's fair to them as an organization to try and do that: to decide to build a plant based on a certain set of financial circumstances and then get a direction, for example, to shut down the coal plants, which changes the economic landscape, and then this no longer may be a project they would have pursued had they known that.

The Chair: Mr. Milloy.

Mr. John Milloy (Kitchener Centre): Thank you for your appearance this afternoon. You didn't have a chance to finish the entire presentation, and I just thought I'd take a second to ask you about the shortage of skilled, experienced staff. Your presentation in written form talks about OPG's efforts at the University of Ontario Institute of Technology. I just wondered if you could expand on what's been going on there, how you see it unfolding and if it's a successful program.

Mr. Müller: Yes. I would say, just backing up generally for a second, that there's a skilled labour shortage in just about any segment of the workforce in Ontario, Canada and North America. We're no different from other groups in that respect except that, for people who require degrees—professionals who take years of experience to get their accreditation—obviously there's a longer lead time in getting those kinds of people. So it's critical for us. Also, in a business such as nuclear power, where there aren't a lot of other participants, universities don't always have the kinds of training programs we need. For a time, a number of universities shut down those programs.

I think OPG's efforts with UOIT are very positive. They're helping to dramatically increase the availability of professionals with skills to work in the industry. It's a very difficult thing to provide that support when you're not certain about the future. Again, part of the supply mix question that's very critical to OPG and others to know

is, are we building more nuclear power? Is there a future for students going through programs like that or not? I think that's the biggest issue for any organization: Can we convince people to come and take that course with the security of knowing that they're going to get a job when it's all done?

Mr. Milloy: I realize I have limited time. Just to pick up on the point about nuclear power, looking through the material that you've handed out in your presentation today, obviously your organization is supportive of a significant nuclear component. One of the things you say right here is that a part of its benefits is no greenhouse gas emissions. But at the same time your organization, and you can correct me if I'm wrong, has stated repeatedly its opposition to shutting down the coal-fired plants. Obviously, although there are technologies we discussed this morning to deal with certain emissions, they don't deal with the CO₂. How do you square that, that on the one hand you're favouring nuclear because of global warming and on the other hand you're not favouring the elimination of coal?

Mr. Müller: It all comes down to how you operate them. Nuclear power is best suited for baseload running all the time, supplying the energy needs. Coal-fired generation is very responsive to demand. If you need more, you can quickly turn on more generation. So we think it plays a critical role in the energy mix, but we don't recommend that you run it flat out for baseload capacity. You reserve it for running only when needed to meet the demand or to phase in other units. It's also ideally suited for backup when there are outages, whether it be a nuclear plant or whether there's a lack of rain, that kind of thing. There's a difference between keeping the coal plants available and running them full-time. We don't recommend, when possible, that they're run flat out. We do think they need to be available and maintained and ready as a backup source of power or a peaking source of power when needed.

1330

Mr. Milloy: Do I have time for one quick one?

The Chair: We are running short. Is it very brief?

Mr. Milloy: I'll be really quick. I'm going to change topics just to get it in under the wire. I want to talk about salaries, both executive and yours. You folks have been criticized that a large portion of your membership is making over \$100,000 a year. We've seen executives criticized. How do you see this going out? What do you think of the panel that's been set up and how do you respond to some of the criticism that's been levelled at your members?

I'm sorry. I've given you about 30 seconds to answer.

Mr. Müller: I think it's obviously in the public interest to look at all the costs that go into our electricity prices. We're very prepared to defend our members' salaries. We do it every time at the negotiating table. The salary survey is out there. We can point to that. And particularly with the skills shortage and so on that's out there, we think that's reasonable.

I think it's important that you decide what kind of company you're looking at and make sure you have com-

parators that are relative to that. That's where I think some of the questions and criticisms were aimed at the executive salaries: Are you a public utility? Are you a private corporation? What are you?

I think it's good that it's being looked at. We certainly support the panel and its work.

The Chair: Thank you very much. We'll move on to Mr. Yakabuski.

Mr. Yakabuski: Thank you for joining us today. It's very appropriate that Mr. Milloy, on the government side, would raise the issue of inconsistency, because they certainly are experts in the field.

Speaking of that, I wanted to get into this with OPG when they were here, but I was unable to—we ran out of time—speaking about the requirement of skilled labour when you're getting mixed signals coming from the top. As you know, the government is the sole shareholder of OPG and they are a loyal operator on behalf of the shareholder. When you're sending so many mixed signals about where you're going in coal, where you're going in nuclear, what kind of negative effect—well, tell me if it's negative, and I'm going to guess that it is. What kind of negative effect does that have on the ability to retain and attract skilled people when they're not sure as to what the situation might be in plant A, B, C at any given time?

Mr. Müller: I think the future of the corporation has a huge impact on their ability to both attract and retain people. Our members are highly skilled professionals. They're highly mobile. They can change companies, change jobs if necessary. We saw a lot of that over the last few years with the uncertainty that was facing the company. A lot of people chose to leave and get other jobs in other places.

I think, particularly with the kind of people we represent, it's critical to have a strong vision and a strong future for the company if they want to keep people around. Sometimes, during downsizing circumstances, I guess the company wanted that uncertainty because it helped reduce the workforce and people left. But now is the time when I think OPG and other companies need to build a good reputation if they want to attract the people who are going to keep the lights on in Ontario. I think it's critical. The shortage we're going to see in the next five to 10 years is going to be massive. Only those best and brightest companies are going to get the best and brightest people.

Mr. Yakabuski: I'm going to roll two of these into one so the Chair doesn't stop me from getting it in. First we're going to talk about the Candu technology and then we're going to talk about your relationship with OPG. I wasn't able to get to this with OPG today, but in my last question I was trying to get to what this is going to mean to OPG if a technology other than Candu is chosen as the new nuclear build in the province of Ontario. Obviously all of your people are well trained and experts in the Candu system. I'd like to get your feedback as to what this could mean cost-wise, operationally and everything else to OPG if a decision is made to take technologies other than Candu.

The other thing, on your relationship with OPG itself, I know that when you spoke here at the Hydro One hearings there was no question that there was a very adversarial, acrimonious relationship between your group and Hydro One, perhaps from the CEO down; it started with the CEO of Hydro One. I do see a far better relationship between you and OPG, which I think is conducive to smooth operations. Would you comment on that as well?

Mr. Müller: Sure. I'll go backwards. Certainly our relationship with OPG has been fairly positive throughout their existence since 1999. As a corporation, they faced some challenges that we didn't support and didn't agree with, but we were able to work with senior management to address those concerns even if their directive was to go somewhere other than we thought was best for the company and for our members. I think that has had a very positive effect on the workforce and their ability to respond to that adversity and to continue to perform very well and have good production, good reliability and so on at OPG. I think management's approach to labour relations has a huge impact on their performance as a company. I think Hydro One suffered from a poor relationship, and OPG is quite the contrast.

Back to the Candu technologies: It's kind of an oxymoron to talk about nuclear power being a very specialized, small segment of the market when everything in nuclear power is billions of dollars and dozens of years to build and so on. But the truth is, when you look at an industry, nuclear power in Canada is fairly small compared to automotive or something else. The rationale why Ontario Hydro built Candu reactors was to get the economies of scale and the efficiencies that there are in repeating similar systems.

We're concerned that if you branch into a different technology for nuclear power now, you're going to lose some of that. If we were looking at building dozens of plants, then it might make sense to diversify and there's a future and it would be worthwhile investing in that. When we're talking about a very small increase in the size of nuclear power in Ontario, I don't think the efficiencies are there to talk about investigating in other technology, particularly when that comes with the need for other suppliers, other support services, other industries.

The Chair: Thank you very much. I'm sorry; we've run out of time. I do appreciate you coming here for the committee.

1340

ASSOCIATION OF MAJOR POWER CONSUMERS IN ONTARIO

The Chair: I would like to ask now the Association of Major Power Consumers in Ontario, Mr. Adam White, to come forward.

Thank you very much for your participation. I just want to remind you that we are splitting the time that you have available, so you can take up to 15 minutes. It will

allow each of the three parties five minutes. You may begin your presentation.

Mr. Adam White: Thank you, Madam Chair, and good afternoon, members, ladies and gentlemen. I'm very pleased to have been invited to present to you and to have the opportunity.

I've brought a slide presentation for you. It's short, but I've violated the rules about the maximum number of words on a page, so I'll try to go quickly through this to give you the most amount of time for questioning.

If you don't know, AMPCO is a not-for-profit consumer interest advocacy organization. It has been in existence since the early 1960s. Basically, we want what all customers want—value for money, reliable supplies at affordable prices—and we want to promote the competitiveness of our businesses.

AMPCO's members are some of the largest power consumers in the province. We're well represented across the sectors of the manufacturing industry. We spend more than a billion dollars a year just on the electricity commodity. We represent 14% of Ontario's demand: about one half of industrial demand and one third of all business consumer demand. Our members collectively employ 50,000 people. I would mention that these are good-paying jobs. These are jobs that will support families in communities across the province. You will know, in your line of work, that many of these communities and many of these families are dependent on the industries that I represent.

Page 3 has a brief agenda for what I want to talk to you about. There is less here that is specific to OPG's operations and more that is a broader perspective on how OPG fits within the structure, and regulation of the sector going forward.

I would bring to your attention on page 4 that these are quotes taken from a recent report of the federal standing committee on industry, science and technology. They do confirm and reiterate what many of my members have been saying to me and probably to you also—that there are a variety of pressures on manufacturing in Ontario: exchange rate fluctuations, increasing competition, red tape. Among those factors affecting Ontario's competitiveness are rising and unpredictable energy costs, and electricity is an important component of the energy supply to Ontario. I would draw your attention to where I've added emphasis in that second paragraph, which is that “a significant percentage of the US manufacturing sector has a competitive advantage over Canadian manufacturers.” That is especially true in Ontario because we now have some of the highest electricity prices in Ontario as compared to other provinces.

On page 5 I've put a chart that shows you how rates are broken down and how some of those rates have changed since 2001. These are numbers reported from a typical AMPCO member. The numbers around the hourly Ontario energy price aren't necessarily an arithmetic average of the price as reported by the IESO but an actual price that would be experienced by a typical member. So what you can see here is that the price has fluctuated.

I would also draw your attention to the other elements of the bill that have also fluctuated quite significantly, in particular the sum of rebates, the global adjustment in rebates, that result and derive from the various caps and limits on Ontario Power Generation and the combination of other contracted generation. This added up to almost \$14 a megawatt hour in 2005 and only \$3.52 in 2006. The graph on page 6 shows this perhaps a little more easily.

There are folks in the sector who've been going around and showing people this bottom line, the one that goes last year from \$72 and this year to \$48.75. Well, it is true that the arithmetic average of the hourly Ontario energy price is lower now than it has been since 2002, but when you add to that the various uplifts in transmission costs, retirement charges, wholesale market service charges, congestion management settlement credits and the global adjustment in rebates, you get a slightly different picture. In fact, what that shows is that we had, as you will know, an abnormally hot summer last year, and we have had this year an extraordinarily mild year early in 2006 by way of weather averages. But you can see there that when you add all of those things up, the trend is upward-sloping. Electricity bills are higher now than they used to be.

Page 7: I have some points here on OPG and its role in the hybrid sector as it currently stands. However one might want the future to unfold or wish it had unfolded, the reality now is that Ontario Power Generation supplies 70% of Ontario demand. Ontario Power Generation owns and operates, has exclusive control over, a diversified, integrated portfolio of generation assets, from one extreme of the supply curve to the other extreme of the supply curve across Ontario. OPG is a dominant player in the wholesale electricity sector. In addition to that, they not only have control over a large majority of the generation assets; because of the way the system was designed around those assets, they in fact also have control over virtually all of the very best generation development sites. So there's no question that, like it or not, OPG is going to play a significant role now and into the future, one way or another.

There was an article in the *Globe and Mail* last week based on an interview with the president of Direct Energy. It was attributed to him—the suggestion that we needed to end subsidies for power consumers. Of course, it begs the questions about, “What are the subsidies? Where do the subsidies derive from? What is the evidence that there are in fact subsidies?” I'll speak to that a little bit later. What he, I suppose, is talking about is these various price caps and revenue caps. They're complicated. We're into an Ontario Energy Board process to review the payment amounts for the heritage baseload assets: the Pickering plant, the Darlington plant, the Beck Niagara Falls complex, and the large hydroelectric run-of-river facilities along the St. Lawrence.

The Niagara Falls and St. Lawrence facilities really are the jewel in Ontario's electricity crown. These are old assets; these are great-performing assets; these are highly reliable assets. They're pretty well fully depreciated and

they deliver very cheap power. The question is, if we understand that, and we understand as well that the government intends to retain ownership in public hands—and I was at the announcement where Energy Minister Duncan spoke to the mandate of the Arnett review panel, and he made it very clear there that the government's policy is to retain ownership. He also put some question as to whether they should be a business corporation or whether they should be structured like some kind of public service agency. To my mind, that's a question best left to the lawyers, but what I am interested in is, if these assets are a source of abundant, environmentally friendly low-cost power, then how can we capitalize on that fact for the benefit of the citizens of Ontario and the electricity consumers of Ontario?

There are some risks in the current regulatory review of these assets, in particular relating to what the decisions are about capital structure and the return on equity. OPG, of course, has one view. We have an alternative view. I think our concerns are that if we are not careful, we can default to a regulatory outcome that increases costs for customers across the board with no value, no increased assets, no more output, no more productivity, no more efficiency and no more reliability. This is a situation that would be worrisome to me. We need assets; we need infrastructure; we need reliability; we need productivity and efficiency. I think our members and other consumers are happy to support investments and see the costs of such investments recovered from the rate base. Where I have a little less comfort is seeing costs rising for no tangible result, and this is one of the automatic results of changing the way that those payment amounts are set.

The other issue, of course, is that we have the revenue caps on what are called the non-prescribed, but again, these are heritage assets; these are smaller, run-of-river hydroelectric systems, other than the Niagara Falls and St. Lawrence systems. It also includes the intermediate thermal plants. Again, the issue here is that the combination of the price caps and revenue caps serves a number of functions. Because the revenues of that company exceed its costs, I think it's difficult to construct an argument, as was suggested in the *Globe and Mail*, that there's the presence of a subsidy. “Subsidy” typically means that things are being sold below their cost, and that's not the case in the output of OPG.

1350

But the caps, in combination, serve a number of important purposes, not just for customers but for the shareholders as well. One is, it stabilizes OPG revenues. Until 2005, OPG was not profitable. One outcome of these revenue caps and price caps, which raised the realized price of power for OPG, is that it became profitable. That's a good thing, I think, from the perspective of the shareholder and the provincial treasury. The other thing it did is stabilize prices.

The other important and necessary function of some kind of policy, whether it's a price cap, a revenue cap or some more complicated market power mitigation agreement, as we had in place previously, is that you have to

address the fact that OPG is dominant in the market for generation. Whether it abuses its market power or whether there's any kind of nefarious intention to do so I don't think is the point, and I'm not suggesting that there is. In fact, the market surveillance panel has found repeatedly that there's no evidence to suggest any abuses of market power, but market power is a reality and this is a fact not only of the Ontario legal and regulatory framework but also the federal framework.

It begs the question as well of what to do with these heritage, intermediate and peaking assets when the existing revenue cap expires in May 2009. This is of interest to consumers. It's particularly of interest to capital-intensive consumers when they're trying to come up with their capital plans and budgets for the years ahead.

On page 8 I have listed here, just as a reminder to me and to you, the purposes of the legislation that this government has put in place, not fundamentally different from the purposes of the legislation that previous governments have put in place. What I'm interested in most here is the third bullet, which is to promote and protect the interest of consumers with respect to prices and the adequacy, reliability and quality of electricity service. This really is my mandate as president of the Association of Major Power Consumers in Ontario and this really is central to the concern of consumers. If you're doing all of the other things—if the electricity industry is financially viable, if the cumulative effect of policy, law and regulation is to promote efficiency, if we have policies and programs in place to encourage conservation and we have entities charged with ensuring reliability—then it's important that we do all of that while protecting the interests of consumers.

On page 9 I've put a slide here just speaking to the institutional framework. There's been a lot in recent weeks and months in the media and in Hansard about potential overlap and duplication, about the multiplicity of new agencies that have evolved out of what was Ontario Hydro. When I talk to my own members about this, I think about it in a relatively simplistic way: There are certain things that need doing and we need people who are going to do them. So we need, for example, an impartial, trusted, capable, independent adjudicative tribunal. We have that in the Ontario Energy Board. They regulate, they set rates, they establish codes, rules and guidelines. So no matter what we do, we need someone to do that. This is a significant improvement, I might say, over the situation before Ontario Hydro was broken up, because in those days Ontario Hydro regulated itself and it was not at all clear to consumers or anyone else what was actually happening inside that corporation. Not only did it regulate itself, it regulated all the municipal distribution utilities. Now all of those assets, all of those utilities are regulated in a very transparent, open and proper quasi-legal process. That is a significant improvement, in my opinion, over the situation as it existed prior to restructuring.

The Chair: I'm sorry, I have to interrupt. We've run out of time. I believe we're at the government members for questions.

Mr. Vic Dhillon (Brampton West–Mississauga): Thank you, Mr. White, for your presentation. The minister set up a panel to review the salaries of the executives of Ontario's energy agencies. How have your members received this panel?

Mr. White: We issued a media release the day of suggesting that we supported the review of the panel. I and my members are not particularly interested in executive compensation. I've been working in this sector long enough to see a number of executives come and go. By and large, though, these institutions have managed to carry on and they will manage to carry on no matter who the executive is and how much they're paid, more or less.

I can understand how there is a sort of visible optical opportunity, but really, in the scheme of things, we're talking about a \$15-billion-a-year industry. So whether somebody is paid \$800,000 or \$1 million or \$1.2 million, so long as they are competent and manage the company well, then it doesn't really add up to much in terms of customers' bills.

I am, though, and we are, quite supportive of the second part of that panel's mandate, which is to look into the roles and responsibilities of the various regulatory agencies. I understand from the terms of reference that the minister has provided to Mr. Arnett that that will take place over the spring and summer and into the fall, so we'll be engaging with it as it goes.

Mr. Dhillon: As you probably know, our government is quite committed to fostering a culture of conservation. What efforts has AMPCO been making on that front?

Mr. White: I'm glad you asked. I've been working very hard, and my members as well, over the last number of months to build capacity within the organization, within our membership, and then more broadly within the business community to understand what the issue is, to become aware and to engage with the government, with the Conservation Bureau and the Ontario Power Authority to take advantage of the opportunity we have to promote efficient and cost-effective conservation demand management.

I am persuaded, based on the numerous conversations, meetings and workshops we held through the fall, that there is a significant untapped opportunity for conservation in the business community. I think that the power authority, the Conservation Bureau and the government would be well served by emphasizing efforts to engage with the business community. I'm quite hopeful, at a personal level, quite ambitious for AMPCO, that we can play a role in promoting that effort.

The Chair: Thank you very much. We'll move on to Mr. Yakabuski.

Mr. Yakabuski: On the topic of conservation—of course, you're the major power consumers in the province of Ontario, and I certainly concur with your little graph about the actual price of power, even though the minister must have said a dozen times throughout the fall that the price of power is down in the province of Ontario. But no one sees that reflected on their bills,

including consumers, including residential consumers, so I appreciate the clarification on that.

On the conservation side, you're major consumers, and one of them you talked about is the forestry industry. I'm very interested in that because we have a lot of forestry operators in my neck of the woods as well as in northern Ontario, which Mr. Hampton is probably going to be talking about as well.

If there was a significant, real program to allow some of these operators to upgrade efficiency through being able to be far more conservatory when it comes to energy use, coupled with a palatable price, how much positive effect could that have on that particular industry, for example, the pulp and paper, the forestry industry?

Mr. White: I can't say—we are working on understanding that better and building a database of business consumers which allows us to produce more accurate estimates of what the potential is. The OPA has produced some estimates of the potential. I think, actually, in talking to individuals, what we've seen in terms of the methodologies used by the OPA is that they tend to underestimate, and I think in some cases significantly, the amount of potential that exists in the business community.

I will say, though, that the way I have put this to business consumers when I speak to them is that we're not doing this because we're philanthropists and we're not doing this for other reasons. The imperative for conservation in Ontario is to avert and defer the need for new generation and transmission infrastructure. We know what we're competing against on the generation side. We know all of the risks and perils in bringing new generation to market, of whatever technology, when you're trying to site it and permit it and get approvals for it and build transmission corridors. We're competing against that. I'm persuaded that we can deliver better, cheaper, quicker and faster.

I would say, though, that when you talk to business consumers, they're not primarily concerned about gigawatts or gigajoules or these kinds of numbers; they're concerned about money. They're concerned about their operating costs and controlling those costs, and they're concerned about the profitability. Of course, this is the basic fact of the forest sector in Ontario: It's not profitable. So long as it's not profitable, we're going to have serious problems and serious potential rationalization in that sector.

1400

So the way that the OPA is going about this I think has some merit. One of the challenges is that they're simply just focusing on electricity, and that's not good enough, because when you go into a pulp mill, of course, what they want to do is optimize their process. They want to make efficient use of hot water and steam. They want to reduce their reliance on expensive natural gas and they want to reduce the consumption of electricity. But they're looking for that in a way that optimizes the economic benefits of the customer. So I think we need to move beyond sort of electric-centric procurement of megawatts

and megawatt hours in a very prescriptive way to understanding business needs and talking to business about what we can do to promote that. I think there's a very large opportunity. We're working on that and hopefully we will be able, within a matter of weeks and months, to report back on what we've found, because I think there's a significant untapped opportunity.

The Chair: We'll move on to Mr. Hampton.

Mr. Hampton: I too want to thank you for your outline of what the actual industrial rate is and what it has been since 2001. Whenever you hear the minister in the Legislature, he tries to cite a much different figure. Whenever I call somebody who's trying to run a paper mill, they look at you and say, "That's not the rate. That's not what we paid last month and it's not the rate that's going to put us out of business." I want to thank you for presenting the actual, true rate, something the government has great difficulty discovering or admitting these days.

I note that you devote a page to talking about OPG and rate structure. It seems to me what OPG is saying when they make the case is, "Look, if Bruce provides a megawatt of electricity, they get paid this amount. We provide the same megawatt of electricity at Pickering and Darlington and we only get paid this amount." I think what they're also saying is, "We provide a megawatt of electricity from one of our coal-fired stations or one of our unregulated hydro stations and we're capped at a certain amount. But Brascan, if they provide that same megawatt of electricity out of hydro dams that used to be owned by the people of Ontario, they get paid much more." I think the case that OPG is making is, "Isn't this a crazy market that pays some people this price for a megawatt of nuclear power and somebody else only this price for a megawatt of nuclear power, and somebody this price for a megawatt produced at a Brascan dam somewhere between Sault Ste. Marie and Sudbury, but an OPG dam that's 200 kilometres away provides the same megawatt of hydro power and only gets paid this amount?" Isn't OPG really saying, "This so-called market doesn't make much sense when somebody gets paid a lot more for generating the same megawatt of electricity in the same way"? What's your comment?

Mr. White: There are a couple of ways to look at that, I guess. One is to suggest that, as citizens of Ontario, we see the dividends from OPG in the form of rebates as well as debt reduction. Shareholders of Bruce Power and Brascan similarly see dividends. So I think one would want to sort of add up and make sure that the sum of dividends and profits from the publicly owned companies and the privately owned companies—are they in fact significantly different, no matter what the price is that each gets paid or is compensated?

But I think the other, perhaps more fundamental point is what you describe is a symptom of market failure. There's no question in my mind that we have a very clear-cut case of market failure in Ontario. However, we have policies and regulations that mitigate that, and the price caps and revenue caps are examples of policies that

mitigate the presence of market failure. But I think we have a way to go, and we're looking forward to working with the electricity agency review panel because it's important that we explore some of these issues. The question is, how are prices set in Ontario, whether or not anybody pays them or gets them? The reality is, of course, that 80% of generation receives a picked price and 80% of a customer's bill is fixed, so it's really only on the margin. But even with that, is marginal cost pricing the appropriate price-setting model where we have a clear-cut case of market failure? There are no new entrants who are going to come into Ontario's generation market and undercut the baseload incumbents. It's impossible. So we have a problem where the baseload incumbents are accruing intramarginal profits that no one can take away, except the government, through policy, law and regulation. We have some policy, law and regulation, but only as it applies to OPG's assets. There are other baseload incumbents who are not similarly regulated. As uncomfortable or inconvenient a fact as this might be for the sector, I think this is something that consumers are going to require that attention be paid to going forward.

Mr. Hampton: Bruce is baseload, OPG is baseload, in terms of their nuclear assets. Why aren't they subject to the same rules?

Mr. White: There's that question, I guess. One of the ways to do that would be to have a perfectly competitive market, but according to economic theory, that requires no barriers to entry: equivalent technologies all the way up and down the supply curve. No one is coming into town and building new nuclear, other than the government; no one is coming to town and building new baseload hydro, because there isn't any; and with the government's policy on coal, no one is coming to town and building new coal. The only new assets that are being built are natural-gas-fired, and the more and more supply we get from them, the more they're going to be setting the electricity price and the more these baseload incumbents are going to be receiving a price set on the basis of natural gas, where their costs are based on having access to Ontario's heritage resources.

This is in fact the elephant in the room. We haven't really, I don't think, had a frank policy debate for a number of years about this issue; we've sort of skirted around it. I think it has to do primarily and fundamentally with the role of OPG going forward and how that is managed. Whether we have a market or any other structure, so long as the government's intent is to retain ownership, we have to manage that.

The Chair: I have to stop you here. Thank you very much for coming today. We appreciate your participation.

TOWN OF PICKERING

The Chair: I'd now like to ask Mayor David Ryan of Pickering to come forward. Thank you very much for appearing here today. We welcome you here. You have

15 minutes in which to make your presentation, and that will then leave five minutes for each caucus to ask questions. You may proceed.

Mr. David Ryan: I appreciate the opportunity to be here this afternoon and hopefully give you some insight as to what it means to be a nuclear host community, what our expectations are of OPG in that regard and how well they've met them. I'd like to touch upon my future vision of Pickering and how it will be inextricably linked with OPG.

As the gateway city to both the east GTA and Toronto, the city of Pickering is making a name for itself as a place of opportunity, innovation and success. In the June 2006 issue of Profit magazine, Pickering received nationwide recognition as one of the top 10 municipalities in Canada to start and grow a business.

I'm proud that Pickering is developing a reputation as a municipal leader and a preferred place to do business. However, I will be the first to admit that a large part of our identity continues to be the Pickering nuclear generating station. Wherever I may go across our country, when people find out that I am from Pickering, inevitably the first thought that comes to their mind is nuclear.

As we are all aware, people tend to have mixed emotions about nuclear power, as it is such a powerful yet divisive issue. I don't feel it's necessary to detail these arguments, as they are apparent. My point is simply this: Regardless of on which side of the fence one sits, no one can argue against the success of the city of Pickering. Our homes continue to have the highest value in all of Durham region, while our property tax rates are the lowest among Durham's lakeshore municipalities. In fact, a few years back, Canadian Living magazine named Pickering as the best city in Canada to raise a family. More recently, the provincial government has recognized Pickering as an urban growth centre in its Places to Grow legislation. In combination with the intensification of our downtown core and the future community of Seaton, the city of Pickering is expected to lead the country in terms of growth and economic development over the next 10 to 20 years. Evidently, the nuclear generating station is not the harbinger of doom that many detractors had mistakenly predicted.

While we still have to deal with the negative perceptions of being a nuclear host community, we have not let it define us as a city. Instead, we try to work in collaboration with OPG and its nuclear station to help achieve our city's successes. For example, OPG has proven to be an excellent corporate citizen, as demonstrated through its corporate citizenship program. This program provides financial and in-kind support to local registered charities and not-for-profit environmental, educational and community organizations whose initiatives reflect OPG's visions of citizenship and sustainability. In addition, OPG has been the presenting sponsor of the annual Pickering dragon boat challenge and fundraiser in support of youth rowing initiatives since 2002.

1410

I was also very proud to have OPG as the lead sponsor for the city of Pickering mayor's gala. Since the

inaugural mayor's gala two years ago, this black-tie fundraiser has raised nearly a quarter of a million dollars, the majority of which is going to the Rouge Valley Ajax-Pickering hospital. We could not have had this level of success without OPG's commitment and partnership. OPG's generous and continuous support of the city and its community partners is an acknowledgement of its responsibility to Pickering and to its residents.

While I'm very positive about OPG's commitment to corporate social responsibility, there was a time when we didn't always hold OPG in such high esteem. Mainly, we have had concerns in the past, specifically in regard to its operations and communications. There were several incidents that occurred in the 1990s, such as the much-publicized heavy-water spills, which caused a great deal of community angst and turmoil. This was exacerbated by the cost overruns of restarting Pickering A. In this situation, in excess of well over \$1 billion was a source of national embarrassment and scorn and arguably the low point in our community's pride. However, I believe that in the last several years OPG has turned the corner. It has made a concerted effort to tighten its ship and fix its numerous problems. As a result, it made the corporate decision to open the lines of communication with the city of Pickering, its most important stakeholder. Currently, I receive timely information updates from OPG and am informed almost immediately of anything that may result in community concern.

Another positive development is that in recent years there has been an increased awareness of the need for clean, reliable and sustainable energy. In response to the province's renewed commitment to nuclear, both our municipal and regional governments have passed resolutions in favour of the refurb in Pickering and the new build in Durham. These shows of support and heightened public appreciation have restored a lot of pride and lustre to the generating station and to its staff.

From a corporate and industry perspective, OPG is helping the city of Pickering solidify its growing reputation as an energy centre. In fact, other organizations have recognized this golden opportunity to build upon our reputation and take a leadership role in the energy industry. That is why I created the Durham Strategic Energy Alliance, or DSEA. The city of Pickering and OPG have partnered with other organizations such as Enbridge, the region of Durham, Siemens, Veridian, Intellimeter, Areva and the University of Ontario Institute of Technology to meet the rising challenges facing the province's energy sector. The DSEA's vision is to position Durham region as a world leader in providing timely, sustainable and reliable energy solutions. Its mission is to foster an energy-friendly environment in Durham region that will be a model of action in Ontario and Canada in the 21st century. Without question, the city of Pickering and its OPG operations are the nucleus of this emerging power. We are working in conjunction with other DSEA members to help fulfill the promise of a clean and vibrant city of Pickering and province of Ontario. "Sustainability" must be a popular buzzword

now, but it is a philosophy that we have been trying to implement in Pickering over the last several years. In fact, internationally renowned environmentalist David Suzuki paid an official visit to Pickering two weeks ago on his cross-country tour and praised the work we are doing in sustainability.

As you are aware, the province has released its plans for the future community of Seaton, which geographically represents our central Pickering lands. This community will be home to 70,000 people and 35,000 new jobs and will essentially be a new and vibrant city within our city. However, going beyond the sheer size and scope of this community, the promise of Seaton is much more significant and represents a once-in-a-lifetime opportunity not just for the province but also for the entire country. Imagine a community that is in harmony with nature and the environment, where homes are built to LEED—which is Leadership in Energy and Environmental Design—standards, have solar panels, and draw their energy from alternative means such as geothermal or district energy. We have the opportunity to make Seaton the most sustainable and environmentally innovative community in North America. So when you combine the revolutionary impacts of the DSEA and Seaton, you will create a one-of-a-kind, game-changing foundation of industry employment, energy generation, knowledge capital, residential housing, and community infrastructure, all working in synergy and aligned with the tenets of sustainability. There simply won't be anything comparable in North America.

That is the opportunity that lies before us now. If we do not seize this opportunity, it will be a complete and ignominious failure on our part.

For this reason, I would like to see OPG bolster its presence in our city of Pickering so that it could devote more energies and resources to fostering this emerging hub of sustainability. Right now, the OPG corporate head office is located downtown at 700 University Avenue. To me, that doesn't make a whole lot of sense, as its core businesses and multi-billion-dollar investments are in Pickering and Durham region. I feel it would be a bold and strategic move to relocate OPG's head office to Pickering. This way, OPG's senior levels of management could keep a closer watch on its core operations and have an active day-to-day role in its multi-billion-dollar investment in new build and refurb. As well, OPG would be able to solidify its status as the driving force and foundation of Canada's emerging hub of sustainability. It won't be able to accomplish this from the far reaches of University Avenue.

This relocation to Pickering would also prove beneficial to the operations of the provincial government. Once 700 University is fully vacated, the province can start pulling in its various ministries and legislative offices that are scattered around the downtown area and not currently in the Queen's Park campus. As well, the province will realize multi-million-dollar cost savings every year, as it will no longer have to pay lease rates on those external offices. Overall, this could be an incredible

coup and public relations victory for the province as it works on so many fronts: economic, organizational, sustainable and political.

The city of Pickering looks forward to working with the province, OPG and other stakeholders to realize this very exciting vision of the future. However, I would be remiss not to address an emergency management concern the city of Pickering has. In the event of a nuclear incident, Pickering's fire headquarters will have to be shut down, as it is within the designated three-kilometre safety zone from ground zero. As a result of having our headquarters and emergency dispatch incapacitated, our ability to respond to emergencies or other incidents in the community will be severely compromised.

As well, the city and OPG have a support agreement for the nuclear station. Should there be any form of emergency at the plant, Pickering will send a fire response team. While attending to the emergency at the plant, there may be cause to lock down the facility. Should this occur, the attending team will be effectively out of service to the rest of the city. Coupled with the closure of the fire headquarters, Pickering's fire and emergency services will be operating basically with a skeleton crew. Obviously, we need to plan around this potential scenario.

When OPG and the government of the day introduced this designated three-kilometre safety zone, it was our expectation that OPG would build a new fire station just outside of the safety perimeter. It is our position that OPG should provide funding for the construction of a new fire headquarters outside of the specified safety zone so that we can continue to respond to our community's need despite a nuclear incident. In addition to paying for the bricks and mortar, it is my belief that OPG should provide sustainable funding so that we can purchase the appropriate emergency response vehicles and equipment and attract, train and retain a highly skilled emergency response team.

Overall, I believe that OPG is running a safe and sound operation. The chances of a nuclear incident are absolutely minuscule. However, we must always plan for the worst-case scenario. We are making a commitment to our emergency planning measures, and we need to have a new fire headquarters. I am pleased that OPG has acknowledged our need and has begun discussion in this area with the city. It is our desire to reach a timely conclusion.

On a final note, despite being given many disadvantages, Pickering has been able to succeed as a community. We are constantly working to strengthen our reputation in areas such as economic development, intensification, sustainability and municipal excellence. Quite frankly, it is difficult to overcome the stigma of being a nuclear host community and all that that entails. For this reason, I'm not very pleased that Emergency Management Ontario is in the process of implementing another initiative that will reinforce the negative connotation of being a nuclear community: Our phone books will soon have red pages to list emergency management contact phone numbers.

I am in favour of implementing measures to safeguard our community. Every community, province-wide, should be protected in this way. However, community is a province-wide concern. There should be emergency measures in place for all municipalities, not just those with a nuclear plant. All phone books should have red-page sections so that any Ontarian will know who to call in an emergency. By differentiating Pickering and in effect highlighting our potential for a disaster, we are being disadvantaged. It will make it harder for us to attract prestige employment and new residents. I invite the province to take a more proactive role in Pickering sustainability and economic development initiatives.

Once again, thank you for providing me with this opportunity to speak today. Essentially, Pickering is managing to the best of its abilities the realities of being a nuclear host community. This means working collaboratively with OPG as we grow and mature as a municipality, and right now we are at a crossroads for our future. As the world is struggling to find a balance between its energy needs and environmental responsibilities, we have a unique opportunity to provide leadership, innovation and example. Together with the province, OPG and other stakeholders, we are creating something truly special that will resonate around our nation and make a real and meaningful difference to the health, well-being and prosperity of our residents and future generations of Ontarians.

I thank you for this opportunity.

1420

The Chair: Thank you very much. We'll begin with Mr. Yakabuski.

Mr. Yakabuski: Thank you very much, Mayor Ryan, for joining us today. Top 10 in Canada: That's pretty good.

Mr. Ryan: Thank you.

Mr. Yakabuski: I congratulate you on that. On the nuclear refurbishment, clearly you would be in favour of OPG and the government proceeding with the refurbishment of Pickering B. You talked about a number of different partners, and Areva was mentioned. With the refurbishment, obviously they would be refurbishing Candu reactors in Pickering. Do you consider Pickering a site for a new build if Pickering A was at some point completely decommissioned? Where do you see that going?

Mr. Ryan: The position we have in Pickering and in Durham region is that Pickering would be the refurbishment site and that the new build would occur at the Darlington site. We don't have the capacity to expand in terms of the footprint of the plant in Pickering.

Mr. Yakabuski: So you're comfortable with that?

Mr. Ryan: We're very comfortable with that. OPG Nuclear has been in Pickering for 40 years. Forty years ago the population of Pickering was approximately 16,000. Today we're 100,000. We all knew that the plant was there when we moved there. We're very comfortable with it. We're pleased with what it does in our community.

Mr. Yakabuski: But then you do know that at some point down the road, you have—even if it's refurbished, you're talking about another 30 years.

Mr. Ryan: Possibly. A lot will happen in 30 years. New technologies will evolve and we may find better ways to utilize the existing site. So who knows, 30 years from now, when in fact nuclear will leave Pickering or anywhere else?

Mr. Yakabuski: Clearly, the city of Pickering views OPG as a very good corporate citizen. These hearings are about OPG, as you know. The relationship between the city and OPG is very good. The people are very accepting of OPG's presence.

Mr. Ryan: Yes, and as I just stated, we've all grown up together with OPG. A lot of the OPG personnel live within our community. In fact, Pierre Charlebois, who was here earlier this morning, is a resident of Pickering. It contributes a great deal to our community financially. Approximately \$400 million a year is directly attributable in our local economy to the Pickering nuclear generating station. We have 3,000 employees at the plant in round figures. It varies between 3,000 and 5,000, but 3,000 is a good base number. There has been a lot of investment both socially and economically in the community.

Mr. Yakabuski: What would be the circumstances for Pickering if refurbishment of B did not proceed?

Mr. Ryan: As I've just stated, given that it is such a big part of our community, there would be a downside to that. We would hope that we would find other ways to offset it.

Mr. Yakabuski: Thank you very much.

The Chair: We'll move on to Mr. Hampton.

Mr. Hampton: I want to thank you. I wasn't here for all of your presentation. One of the issues that nuclear power certainly has to answer within the Ontario context is the fact that nuclear power plants that have been built in Ontario have a long history of going over-budget in the construction process and have also proved to be very expensive to maintain. When nuclear power was first introduced into Ontario, people were told that once the plants are built, they would produce electricity so cheaply that it wouldn't even be worth metering it, and the plants would be basically maintenance-free. Well, maintenance has been an issue. I think the third issue has been that, when it comes to refurbishing the plants, they have also proven to be more expensive to refurbish than people were told as well.

I guess my question to you would be: Does it bother you that on the initial building side, the refurbishment side and the operating side, nuclear has proven to be much more expensive than was first advertised to the electricity consumers of Ontario?

Mr. Ryan: As a municipal representative here today to talk about Pickering as the nuclear host community, all of those things quite frankly have contributed to our economy; so thank you.

Having said that, I'm really not qualified to argue the pros and cons of any one of the technologies or their costs. I do know, as a consumer and a resident of On-

tario, that we're all concerned about escalating costs, but I believe that every technology is usually over-promoted and typically costs more than everybody believes it's going to initially.

Mr. Hampton: Every once in a while—this is especially true of the financial community—they will talk about our electricity system's \$20 billion of stranded debt, which everyone pays on their monthly hydro bill. For a lot of people, it's an issue of some concern. Most of that \$20 billion of stranded debt is in fact nuclear debt. Darlington was supposed to cost about \$4.5 billion to build; it ended up costing closer to \$15 billion. You can assign some blame along the way: governments that stopped and then went; there was an election, so, "Oh, we're going to stop building Darlington"—it seems to me that when you have \$20 billion of stranded debt that requires special payments to deal with that debt, above and beyond the other issues of running the electricity system, you'd want to look carefully before you go down that road further.

Mr. Ryan: The stranded debt is an issue for all of us, and I'll couple that with the whole situation that we have on the overburdening of the residential tax base. There are different ways to handle the stranded debt. The stranded debt is a matter of fact. It has to be dealt with. The objective of the government should be, first of all, not to increase it, and secondly to find more productive ways of dealing with it rather than hiding it in an energy consumption bill that goes to the homeowners—and I'm speaking on behalf of the homeowners, not the businesses that are using them.

I've got residents in Pickering who, with the current taxation system with market value assessment, are finding themselves in a situation where they bought affordable homes 35 years ago that they can't maintain today on their pensions. When they bought them, they were affordable; as they were working, they were affordable. On a fixed income, with the continued downloading, with things like stranded debt being forced upon them on a day-to-day basis, they're finding homeownership untenable. That's the real issue that needs to be addressed by all levels of government.

Mr. Hampton: In that vein, we heard earlier this morning that OPG sets aside a certain amount of money every year to deal with the liabilities and obligations under long-term nuclear waste storage. But I think one of the things we heard is that they may in fact have to set aside even more money to address the obligations, responsibilities and liabilities under long-term nuclear waste storage. With all of those things hanging out—stranded debt and even more money having to be set aside potentially to deal with the long-term nuclear waste issue—what does that say about affordability in the future?

Mr. Ryan: I don't have that answer. I see the direction you're trying to take it. The point is that whatever technologies are employed, there are going to be costs associated with them. In terms of the costs associated with nuclear, not all of the costs are directly attributable

to nuclear itself, the example being the imposition of a three-kilometre impact zone that was put in place by OPG without consideration of what that would mean on the existing infrastructures in the nuclear host municipalities. So in our case, we have a fire hall that is our headquarters but now has to be relocated.

The Chair: I'm sorry to interrupt, but we've run out of time. Thank you very much for coming here today.

Mr. Ryan: Thank you.

The Chair: I'd like to ask Mr. Tom Adams of Energy Probe to come forward, please.

1430

Mr. Leal: You skipped us.

The Chair: I did. I'm terribly sorry. Mayor Ryan, could you come back. I do apologize. I meant to move the conversation—

Interjections.

The Chair: I'm sorry. It is the government members who have the opportunity to ask questions, and I believe it's Mr. Leal.

Mr. Leal: Thanks very much, Madam Chair. You handled that very well.

It's good to see Your Worship here today at committee.

Mr. Ryan: Thank you.

Mr. Leal: The Pickering nuclear station has been in your community now, if my math is right, about 40-plus years. How would you characterize OPG's Pickering station as a neighbour? Is it open? Is it an open and transparent utility in your community?

Mr. Ryan: OPG celebrated their 40th anniversary in our community last year and I think that's just an example of the way they do business in our community. They have employee volunteers who go door to door within the community soliciting input from the broader community on how they are as a neighbour.

In terms of their day-to-day operation with the city of Pickering, I'm notified immediately of anything that is occurring on the plant that might be a real or a perceived concern—and so far, it has always been a perceived concern—to the general population. I'm very pleased for that. We have a communication protocol whereby my senior staff and myself are on a 24/7 communication link with the plant in that regard.

In the broader community, as I mentioned, they've really gone to great lengths to partner with community organizations. The number of OPG employees who actually live within our community and make themselves known within our community I think is admirable. The past chair of the United Way is a senior member of the Pickering plant, as another example. I could list very many opportunities which they've taken advantage of.

Mr. Leal: A follow-up question: Your neighbours down the road in the Bowmanville area have indicated they will be a willing host for any potential expansion in that area. What is the position of Pickering with regard to possible expansion as a willing host?

Mr. Ryan: As I stated to the previous question, the Pickering council, by resolution, and the region of

Durham council, by resolution, are both supportive of the refurb at the Pickering station and of the expansion at the Darlington station, the new build.

Mr. Leal: Would you know offhand the value of the payroll to Pickering?

Mr. Ryan: No, I don't know the payroll dollars. As I did say, we do know that in a 2000 study about \$400 million a year is added to our economy as a direct result of nuclear being in our municipality. We know that they employ between 3,000 and 5,000 employees at the Pickering station. In addition to the plant, there is a training centre and a seven-storey office building on Brock Road that was completed just three years ago. We see the opportunity to consolidate those, along with the folks from University Avenue, into an office tower that we have partnered on with the teachers' pension fund, with a connecting pedestrian bridge to the Pickering GO station to bring the folks from downtown out to Pickering in comfort and work in a brand new modern building.

Mr. Leal: Just one last question: If we ever move OPG headquarters, you'd share that with Peterborough, wouldn't you?

Mr. Ryan: Absolutely.

Mr. Leal: Thanks so much. Thank you, Your Worship; good to see you again.

The Chair: Thank you very much, and I do apologize for the confusion.

ENERGY PROBE

The Chair: Now can we have Mr. Tom Adams from Energy Probe? Sorry for the earlier confusion. Welcome to the committee. Thank you very much for taking time today to participate in our hearings. As I have mentioned, you will have up to 15 minutes to make a presentation, which will allow each caucus to ask questions for approximately five minutes.

Mr. Tom Adams: Thank you very much, members of the committee. I appreciate the opportunity to appear.

Energy Probe is an independent, non-profit consumer and environmental think tank. We've been active in multiple forms in Ontario since before the Pickering nuclear power station was brought into service.

We're promoters of economic efficiency and conservation with respect to natural resources and take a long-term public interest and concern with respect to consumers and the environment, particularly residential consumers. We've been active in public utility regulation; we are in direct communication with our supporters; we appear frequently in the press with regard to comments and analyses on energy matters; we're active in the educational environment; and we're directly involved in scientific and technical research.

The purpose of my presentation is threefold. I'm going to present an overview of the current process that's underway at the Ontario Energy Board with respect to OPG's rates for 2008 and encourage this committee to endorse that process. The second thing I want to present to you is some encouragement for the committee to en-

dorse an exploration by OPG of the potential for dramatic emission reduction cuts at its existing coal-fired generation sites using coal in a new and much more environmentally responsible fashion. The third issue I want to address with you is to make a case against sole-sourcing any nuclear expansion and make a case for nuclear competition.

The Ontario Energy Board has been given a mandate by the Ontario government to establish rates for OPG's prescribed assets starting in May 2008. This direction from the Ontario government was made pursuant to the Ontario government's initial commitment back in 2003 to depoliticize fundamental decisions taken in the electricity sector. Of all the initiatives that the Ontario government has taken since that time in electricity matters, this initiative to give the OEB some responsibility with respect to OPG rates is one of the few that is squarely within that depoliticization strategy.

The participants that are active in the Ontario Energy Board proceeding include government agencies, interest groups and consumer organizations. Hydro One, the IESO and the Ontario Power Authority are examples of government agencies that are active there. The Power Workers' Union, Toronto Hydro and Bruce Power, as well as power marketing agencies, are examples of interest groups. Consumer organizations active there include the School Energy Coalition, the Vulnerable Energy Consumers Coalition, AMPCO, which was just speaking, the Canadian Manufacturers and Exporters, as well as Energy Probe.

The review is technically oriented and has access to experts in a variety of fields. Board staff has presented a number of discussion papers and is developing a methodology for the review. They are about to present guidelines for the filing of the detailed technical documents behind the review.

This is a unique historical process. Ontario has never had such a level of public oversight with respect to OPG or its predecessor and it would be unreasonable to expect the process to happen quickly. It's anticipated that at least three years is required for the review. This is a very thorough process, far more thorough and inclusive of public participation than could be provided by a committee such as this.

The point I want to make to you with regard to the exploration of opportunity for dramatic emission cuts from coal-fired generation starts with the premise that the technology for coal-fired utilization is making rapid progress under intense public and industrial support. Many parts of the world—the United States, Japan and Europe—are clearly in the lead. The representatives from OPG who were here this morning explained, and accurately explained, that we can now, with existing off-the-shelf technology, virtually eliminate conventional pollutants from coal-fired generation. The Ontario government has endorsed the exploration of alternative uses for the coal-fired sites through the biofuel initiative for the Atikokan station. I believe that this initiative ought to be expanded, and one of the technologies that ought to be

addressed is a technology that is a dominant power supply alternative in Europe right now, and that is coal-fired cogeneration for district heating purposes. The city of Thunder Bay is an example of perhaps one of the best opportunities in Canada for the creation of an ultra-low-emission coal-fired generation and combined heat and power unit. This is an opportunity that we should not overlook. It would be a mistake to ignore the progress that other communities are pursuing.

1440

With regard to nuclear expansion, our organization is steadfastly opposed to any expansion of nuclear. However, if Ontario is to consider the expansion of this technology in the future, we believe that it would be irresponsible to do so without comparison shopping. There is a tremendous opportunity to bring the potential suppliers of nuclear goods and services into a direct, transparent public review process where they would be invited to critique each other's proposals with respect to cost, reliability and safety. The process that OPG has described for its internal review is one that depends on OPG retaining the freedom to explore all of the technology options. Energy Probe is supportive of that freedom of scope but believes that lifting the veil of secrecy so that there can be transparency with regard to the information that OPG is gleaned from this process would benefit the public directly. We can see the benefits that have occurred when OPG has been operating in an attempt to enhance its public confidence. It has improved the behaviour and the performance of OPG, and that's a good thing. When the government undertook sole sourcing for the Bruce refurbishment, they did not have the advantage of the comparison shopping that we think is essential, and some of the consequences that we expect to see for ratepayers will flow directly from that sole-sourcing arrangement.

Those are my comments for the committee. I really want to express my appreciation again for the opportunity to appear.

The Chair: I think we are around to the NDP for the first question.

Mr. Hampton: I wanted to ask you some questions about coal. It is certainly true that in Europe they are looking at different ways of using coal, cleaner ways of using coal etc. I understand that the United States has put a fair amount of money into research. Based on your knowledge of what's going on, can you tell us what are the best technologies that appear to be out there and what is the solution to carbon emissions?

Mr. Adams: One example that is in my mind is one of the most exciting coal-fired facilities in the world: a coal station in downtown Copenhagen called Avedøre. It's a multi-fuel station that uses biofuels as well as coal. It's producing heat and power. It has a very large storage tank, so if it's producing power at a time when customers don't need the heat, it can store the heat for a period of time and release the heat when the customers need it. The downtown location is key to the efficiency profile of the station. When a dedicated facility is producing only

electricity and throwing away the waste heat, at least 60% of the thermal value of the fuel is disposed of into the environment. What they're doing at the Avedore station is achieving over 80% thermal efficiency, particularly in the winter heating season.

If you look at a community like Thunder Bay, they've got a downtown coal station. They've got a large heating load. It's not a warm part of the world. They need to heat their houses. They're using natural gas and electricity today. That's a terrible waste of resources. While we're throwing heat out into Lake Superior, that's heat that could be funnelled to the community and causing a reduction in the fuel use that people would be incurring today for heating municipal buildings, industrial services as well as residential purposes. This is a strategy that's proven, and it would be a terrible shame if we couldn't learn from the experience of others.

Mr. Hampton: There is an issue around carbon, though. So, to your knowledge, how is that being addressed? There's some rather interesting stuff going on in the north end of Scotland, where they're doing experiments on sequestration of carbon back under the North Sea oilfields etc. But even they admit that this is one part reality and nine parts research and hope. What are the prospects for dealing with the carbon?

Mr. Adams: The zero-emission coal plant is not a reality today with respect to carbon. With respect to conventional pollutants, virtual elimination is the standard we ought to have. We ought to set the standard. There's no reason why we ought to be sucking on the tailpipe with respect to sulphur dioxide, nitrogen oxides; it's silly. It's relatively inexpensive to clean that stuff up and it's mind-boggling that we don't do that. But with respect to carbon emissions that are residual after you have achieved the cogeneration benefits and the high-efficiency generation like they have at Avedore, a very high-efficiency fuel unit, you still have carbon emissions. So what are you going to do about it?

The technology is making rapid progress and Canada is part of that. We have federal programs now that are pursuing the science on this. In the Thunder Bay area, the geology does not appear to be suitable for this type of disposal. However, in southwestern Ontario we are part of the same geologic formations that are underpinning the geology of Michigan, Ohio and Indiana, and the research effort on the other side of the border is showing that there are these deep saline aquifer formations that represent very large storage potential. So Ontario, unfortunately, is not participating in those mid-western states initiatives that are under way now. There's a huge amount of science going on that I feel very confident in the foreseeable future is going to come up with solutions. But in terms of solutions that you can plug in today, go out and get a supplier to strap them on to your coal plant today, they're not there.

The Chair: Thank you very much. We need to move on. Mr. Duguid.

Mr. Duguid: Thank you, Mr. Adams, for your presentation and all the good work you do, making sure that

your perspective is out there. You are definitely very active and work very hard at this stuff and we appreciate that.

I've got a few questions, but the first follows on the lines of Mr. Hampton's. Given that just about everybody who has appeared before us so far, and most people we have spoken to outside of this forum, suggests that coal technology is not at a place yet where it can deal with emissions of CO₂, and that it's not at a place yet where environmentally it's superior to other technologies, I just want you to confirm: Are you suggesting that the government should be looking at investing in these coal technologies, even though most would suggest that they're not the best environmental way for us to provide our energy?

Mr. Adams: Well, the question of what is the most environmental form of power generation cannot be considered in isolation from the costs of these things. Consumers don't want to pay more for electricity, and the natural-gas-fired generation that Ontario is now making a huge commitment to and which many people seem to be endorsing has gigantic cost consequences. The cost of natural gas today, the cost of natural gas in the futures market for next January and the cost of natural gas in the futures market for the January after that suggest that the fuel is about five times as expensive as the cost of coal. That price differential represents a lot of financial potential to fund the environmental cleanup that coal needs. Coal has a bad history. It was used before people were aware of the problems associated with it and used carelessly after we had an understanding of the environmental consequences. In this day and age, for a modern society like Ontario to be operating coal plants without scrubbers on them is a highly questionable proposition.

1450

It's not coal versus wind or coal versus nuclear. These are not alternatives to coal, because none of them has the flexibility of production characteristics that are essential for keeping the lights on. These lights are on because we have enough generation on our system that can follow the load. The only alternatives that we have available to us to do that today are coal or gas, so how much gas do you want to have on the system when gas is selling for 10 US bucks a GJ?

Mr. Duguid: I'm going to change gears a little bit and talk about electricity prices. Some of the deputants who appeared before you today expressed concern about energy prices as it affects their particular area of responsibility. Are you in support of an approach that allows the market to set these energy prices so that consumers are paying closer to the true costs or do you think that the government should intervene and get involved in artificially setting the price for electricity?

Mr. Adams: We have always taken a long-term view of this. If it was just for "how to get my bill lower next month," if that was the only objective that we had, that would be easy. The old Ontario Hydro figured how you do that. What you do is you go and issue a lot of bonds,

you get your accountants to fiddle with your books, you come up with some fancy numbers and you get on with life, right? But you build up this gigantic liability. That's not a long-term strategy, and we're on the tailpipe of that. So we've got to look beyond that. Consumers need to pay the real price of energy, but that doesn't mean that they just ought to pay any price for energy. We ought to have a system that gives people reasonably clean power as efficiently as possible, but then, when it's finally delivered to the customer, they're paying the full freight.

With respect to OPG, it's not clear that the prices that we are paying today for OPG, for its operations, reflecting the cost outlook for operation of these aging facilities—keep in mind, what is the average age of these facilities we're talking about? These are old units. It may well be that the outcome of the Ontario Energy Board process is a recommendation from the regulator, taking into account the input they received from all these parties, that the price might have to rise a little bit. I hope that our society has the wherewithal to actually let the regulator do that job if that's the decision.

The Chair: Thank you very much. We'll move on to Mr. Yakabuski.

Mr. Yakabuski: Thank you very much, Mr. Adams, for joining us. Mr. Duguid was talking about the research into possible coal technology. I don't think anybody has stated that zero-emission coal exists today, but I think we should be clear that zero-emission natural gas doesn't exist either. I think that sometimes people get the erroneous viewpoint that natural gas is without CO₂ emissions, which of course we know it isn't, and you can elaborate on that.

Research is going on in every industrialized country and is particularly strong in the United States because they have so many coal-burning plants and they have so much of the resource that they are not going to turn their backs on coal because they have over a quarter of the world's coal. So if they perfect this technology so that they can at least reach the emission level of natural gas, they're going to have a tremendous cost advantage over us in the production of electricity. When this government says, "It doesn't exist, it's not there yet, so we're not going to be involved in it and we're not going to invest any money in it"—the government owns the plants that burn coal. I'm just wondering, if I could draw an analogy: We've been looking for a cure for cancer for as long as I've been alive. We haven't found it, but we haven't stopped investing in it because it's a worthwhile goal to try to eliminate that kind of insidious disease. But this government seems to turn its back on innovation and technological advancements just because they're not there yet. I'd like your comments on that, particularly when all of the people whom we have to compete with are investing huge amounts of money, which could lead to a tremendous economic advantage for them.

Mr. Adams: Your cancer analogy is apropos in the sense that we haven't beaten cancer, but we've hugely improved the life expectancy for people who are diagnosed with this disease in many of the categories of

cancer that still afflict us. It's not as if the project of trying to fight the disease has been fruitless. You can look to other areas of technology. Fusion power is an example where we've put effort into it for 50 years and we've got nothing to show, but cancer research is not one of those examples. Something similar is happening with coal: There's no zero-emission coal, just as cancer hasn't been beaten. But the modern coal plant doesn't look anything like—look at this Avedore plant that's in downtown Copenhagen. It's not an environmentally unaware community that decided to allow this thing to be built in their midst.

When we're thinking about constructing natural-gas-fired generation—and not just thinking about it; we are committing to building a very large fleet that is under construction in Ontario today—what is the fuel for those units? North America is now becoming increasingly reliant on liquefied natural gas. These are huge tankers that are transported across the oceans from business partners like Algeria and Putin's Russia to supply us with fuel that itself has high embedded energy costs to get the refrigeration down to minus 162 degrees Fahrenheit so that the stuff can be liquefied. It's illustrative to think of what the Americans do when they bring these tankers into some of their ports: The kind of military resources that they commit to protecting those tankers as they come into Boston harbour, for example, would stretch the Canadian military in terms of our capability to provide what Americans consider to be an adequate level of security for those facilities, given the particular kind of risk.

Ontario building gas-fired generation is part of what is driving North America towards liquefied natural gas. We don't—

Mr. Yakabuski: What about the emissions from natural gas, CO₂?

Mr. Adams: When you go to LNG, you increase the life cycle emissions about 20% by some people's estimates; more, by other estimates. There are lots of contests about this in the literature.

In the days when natural gas was cheap, back in the 1990s, it was an easy one to pick: It was cleaner than coal. There are emissions, but they're much less than coal in conventional facilities. It wasn't really attracting the kind of scrutiny that it's getting now, when you've got the package of liquefied natural gas and the environmental hazards associated with that, plus the cost.

The Chair: Thank you very much. We have run out of time but appreciate you coming today.

CLEAN AFFORDABLE ENERGY ALLIANCE

The Chair: I'd now like to ask Carol Chudy of the Clean Affordable Energy Alliance to come forward. I'm sorry; I'm not sure how to pronounce your last name.

Ms. Carol Chudy: "Chuddie."

The Chair: Thank you. As I know you know, you have 15 minutes in which to make a presentation. That will allow five minutes for each caucus. Please begin.

Ms. Chudy: Thank you. As is noted, I am Carol Chudy, co-chair of the Clean Affordable Energy Alliance. We are an energy ratepayers' organization which advocates reliability and security of power supply, environmental accountability and the preservation of economic sustainability. We've closely followed provincial power restructuring over the past few years, having reviewed and responded to OPA reports, stakeholder submissions, discussion papers, Web conferences and workshops. We have spent considerable time researching credible energy and environmental information. Our initial concerns for the future affordability and stability of Ontario's power system have not diminished through this process. We have expressed our concerns to the media, the Ministry of Energy, the Ministry of the Environment, opposition critics, the OPA, and committees such as this.

1500

As a voice for ratepayers, we appreciate this opportunity and wish to address three issues that are directly related to the services and the mandate of Ontario Power Generation. We obviously have much information in this report that I will barely even touch on, but I do hope you will take the opportunity to read what we have to substantiate what we are going to say today.

First, Ontario's publicly owned utility, now known as Ontario Power Generation, has undergone significant changes since its inception in 1906. The original mandate was to "provide all citizens with electricity at the lowest possible cost." The utility which first brought a modern convenience to early Ontario now provides an essential service, vital to every aspect of our life. In spite of the changes, the mandate is essentially the same: to cost-effectively produce electricity from its diversified generating assets while operating in an open, safe, and environmentally responsible manner. A memorandum of agreement between OPG and the crown, as represented by the Minister of Energy, describes and develops the mandate. Both parties to the agreement—the minister and OPG—have responsibilities. Those of OPG are specified; those of the minister are implied by virtue of his office as a representative of Ontario ratepayers.

Some implications: The Minister of Energy must not act on his own behalf, nor out of political motivation, but as one who protects the interests of the people of Ontario. His interaction with OPG ought to conform to the ministry mandate to "ensure that Ontarians have access to safe, reliable and environmentally sustainable energy supplies at competitive prices" and be in harmony with the Ontario Energy Board mandate to "protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service."

Secondly, the average Ontarian forms opinions primarily from media information and public interest groups as reported to the OPA. Unfortunately, there are recurring reports that, in our opinion, represent partial information as the whole, misinform, or mislead. When sustained and combined, the public forms opinions that are based on perception, not reality. We are concerned

that much information regarding the environmental impacts of power generating resources goes uncontested.

OPG has the mandate to operate with transparency, accountability and social responsibility. In fact, Minister Duncan has said that OPG is a publicly owned company belonging to the people of Ontario; it plays a critical role in all our lives and the people of Ontario pay this company's bills. It must operate and be seen as operating with transparency and accountability to taxpayers.

The CAE Alliance therefore asserts that OPG has a public duty to counter any misinformation, misrepresentation of information, or misperception from any source.

Thirdly, according to the agreement, "OPG will operate as a commercial enterprise with an independent board of directors." As such, OPG operations should be guided by the same market principles as other prospective generators, including fair and unbiased procurement options, and subject to competitive processes that are open and accessible. If private industry can compete against OPG without concessions, contracts should be awarded. Otherwise, the ratepayer subsidizes private enterprise.

The CAE Alliance believes that ministry and government involvement with OPG should be characterized by oversight and accountability, not intervention. Although the agreement grants the minister the prerogative to direct OPG to undertake special initiatives, the instances to date, we believe, have not been in the public interest. Those include the reduction of Bruce Power lease payments, the conversion of Thunder Bay to natural gas, later cancelled, the direction disallowing OPG to bid in on RFP projects, and the coal closure mandate.

The second area that we wish to discuss is the role and restrictions of OPG in a market-based system.

Throughout the last decade, deregulation and market participation was considered by many as an ideal solution to address the massive new infrastructure investment required to replace and enhance Ontario's power supply. Private investment would divert the risks from ratepayers to producers, share in the cost of new power plants and create a climate of competition guaranteed to lower costs for consumers.

Five years ago, Mr. McGuinty voiced support for a genuinely competitive market for power generation but noted that the province needed to break up OPG to ensure competition in electricity generation. At that time, it was determined that 4,000 megawatts of price-setting power production should be divested in order to develop a competitive marketplace. The long-term vision for the creation of a competitive market for electricity supply is a stated goal of the Ontario Power Authority.

The interim years have seen significant changes in Ontario's power administration which have not only paved the way for market participation but have resulted in much more government intervention in production and distribution of power. In spite of this, the OPA notes that insufficient supply-side competition exists and the necessary market features have not developed. A genuinely competitive marketplace has not materialized. We've listed a number of examples, including the divestment of

assets at a fraction of their value, and we are now paying more for power from them; a granting of subsidies, tax benefits, bonuses and guaranteed minimum payments to private power producers; ratepayers will pay more for all forms of private generation, as confirmed by the OPA; and in terms of risk, the federal Parliamentary Information and Research Service notes that the provincial government approach in dealing with the private sector “entails potentially significant financial risks for the province and ultimately for the electricity ratepayers and taxpayers of Ontario.”

As noted, significant changes have occurred in the last five years, including higher/volatile cost of natural gas, advances in technology to keep pace with environmental guidelines, geopolitical concerns impacting security of supply resources and the emergence of international economies that impact Canadian competitiveness for both our goods and services and external fuel sources.

The CAE Alliance is concerned that the government’s vision for a strong presence of emergent generation in Ontario is driving their current energy policy. There does not appear to be an assessment or evaluation of the merits of proceeding or what it is costing the consumer to get there. We believe it’s an outdated agenda not in the public interest, or prudent to pursue.

We need to recognize that OPG owns one of the most diversified, low-cost and low-emission portfolios in North America, with a commitment to continually improve the efficiency of the generating stations so that Ontario has the power it needs when it needs it. We’re asking the government to reassess the market model and the role of OPG in power production.

Thirdly, we wish to consider the continued presence of coal-fired power generation in Ontario. After extensive research, the CAE Alliance has concluded that the coal replacement strategy is based more on political will than on science and economics. If we consider air contaminant emissions, the purported reason for closing the coal plants, note that the Ontario Medical Association indicates that health impacts are attributed to chronic acute exposure to five common smog components. Of three of these—carbon monoxide, particulate matter and VOCs—coal-fired generation contributes less than 1%. Coal combustion does contribute more significantly to the other two, NO_x and SO₂, but as has been mentioned here a few times today, those can be reduced 80% to 95%. Government reports confirm that. For example, the government’s health report indicates that coal plants contribute 1% in Toronto on smog days, and it is not surprising, therefore, that the closure of Lakeview GS has had no impact on the GTA.

In spite of this, the Minister of Energy has specifically called for coal-fired generation in Ontario to be replaced with cleaner sources in the earliest practical time frame. The IESO has indicated that the characteristics of replacement resources should closely resemble the withdrawn supply. Also, as has been noted today, natural-gas-fired generation is the only close substitute. Therefore, although the OPA acknowledges there are considerable

risks associated with price, volatility and supply of natural gas, an additional 7,000 megawatts of gas-fired generation is included in the power plan. That’s more than double the existing capacity, with almost triple the output. This will cost billions of dollars required for the transition. To us, it seems pointless.

1510

Studies and reports indicate that emissions from coal plants can be reduced to about 1% with current available emissions control technology that is within 1% of natural gas. That is confirmed by a recent report by the University of Waterloo indicating that that remediation technology could reduce SO₂ and NO_x contributions to about 0.3% when averaged across southern Ontario. Particulate matter, mercury and other harmful metals can also be reduced that same amount.

Transitioning from coal to gas will come at great cost, for marginal, if any, environmental benefit. We document significant concerns with the supply of natural gas. In fact, the OPA indicates that by the middle of the next decade there will be much more cost associated with natural gas because of the reduction of production in the Alberta basin, where we get most of our gas from.

The remaining concern for coal-fired generation is the climate change potential. Let’s look at that in perspective. According to Environment Canada statistics, coal plants contribute about 13% to Ontario greenhouse gas emissions, about 3% of the national total and 0.006% globally. When we consider that about 4% of global greenhouse gases are anthropogenic, Canada contributes about 2% of that. Here again, the replacement of natural gas will have limited impact.

When we consider point of combustion—again using information from Natural Resources Canada, Environment Canada and the US government—greenhouse gas emissions from natural gas are 52% to 57% those of coal. If we consider, however, the lifecycle emissions associated with gas production, refining and transport, the difference narrows.

The World Energy Council indicates, “If lifecycle analysis was used and other greenhouse gases were taken into account, electricity generation from fuels other than coal would show similar or even higher greenhouse gas emissions.”

Further consider that CO₂ emissions from coal plants can be reduced by coal-firing with biomass, which is done very well in European countries. Germany, for example, uses that technology quite a bit, and they have 50% of their power production from coal. If we implement emissions control technology, we will increase unit efficiency, and that will mean less coal-burn and less carbon emissions.

As Mr. Adams has pointed out, combined heat and power operations used in coal-fired generation would cut CO₂ significantly. And we also have to finally acknowledge the contribution of fly ash from coal combustion that is diverted from landfill and used in place of cement for concrete production. More than one tonne of CO₂ is emitted for each tonne of cement used.

The CAE Alliance concludes that the coal closure is unnecessary and will be effected at great cost to the consumer. Closing coal plants will not significantly improve either air quality in Ontario or climate change. What it will guarantee, however, is the removal of 6,500 megawatts of affordable, flexible and reliable power. That, we believe, is not in the provincial interest.

Finally, our assessment of the OPA proposals in the integrated power system supply indicates that coal-fired generation will be required past 2014, and we give you a number of reasons why we've come to that conclusion.

Many changes and uncertainties are anticipated through the next decade. Retaining the reliability of coal-fired generation will stabilize the power system as significant changes are made in our supply portfolio. The OPA acknowledges coal-fired generation to be "an important component of the present supply mix ... supporting the security of the electricity system and in helping to manage uncertainties caused by the unavailability and/or reduced capacity of other generating plants." It meets all the criteria. Therefore, it is imperative that the coal-fired power plants be maintained in optimum condition and that the very best available emissions control technology be installed without delay.

Thank you.

The Chair: Thank you. Right on time. We are looking at questions from Mr. Leal, please.

Mr. Leal: Carol, I had the opportunity to meet you in Simcoe some time ago. I appreciate you being with us today.

I have a couple of questions. There have been estimates of about \$1 billion with regard to scrubbers and SCRs to be installed on coal-fired plants. My understanding is, yes, they can probably contain both NO_x and SO_x. There is some question in terms of mercury and particulates, and they have no impact on CO₂. If we went that route, that billion dollars, would you see the ratepayers of Ontario picking up the cost for the installation?

Ms. Chudy: Let me just clarify: Particulate matter and mercury are reduced—particulate matter up to 99%, and mercury about 95%—and we document in there our resources for that. In fact, Lambton generating station is already noting that on two of their units.

Is the cost worth it? Well, because of the generating characteristics of coal-fired generation, if we remove that, we have to replace it with natural gas. That's going to cost the Ontario consumer big-time. The Ontario Energy Board indicates that the amount of gas that we will use to replace coal will be more than what we use for all residential consumers combined presently.

Mr. Leal: The other question—and I will take the opportunity to read your full brief. You talked a little about hydroelectric development. This morning we had OPG officials with us. They went to great lengths talking about the tunnel that's being dug in Niagara Falls and other potential developments, run-of-the-river and OPG. I notice that you don't really highlight that at all. Could you just respond to that?

Ms. Chudy: On the use of hydroelectric power?

Mr. Leal: Yes.

Ms. Chudy: I think it goes without saying that hydroelectric power is a vital resource. Again, though, as has been said earlier, we need the balance of resources. When hydroelectric is down in the summer like it was, I think, a couple of years ago—in the summer of 2005 it was down about 15% because of drought-like conditions. If we have wind power and the same condition in the summertime and we have nuclear for baseload, you need something for the load following the flexibility, the dispatch capability. Again, natural gas and coal are the only two resources.

Mr. Leal: My last question is, has your group done any extensive research in terms of CO₂ sequestration and having the right geological formations? I heard earlier today from Mr. Adams that it might be available. Has your group had any geologists look at that issue to make some determination?

Ms. Chudy: We're a pretty small group, so, no, not specifically. We've read quite a bit about it. In fact, I believe that Montana is sending some of their CO₂ to Alberta, and they're looking into developing in that area and they've had some experimentation there. I think it's definitely something that's in the works, because there's the need for it, there's the desire for it and there's the money for it. I think it's only a matter of time.

Mr. Leal: Thank you so much for being with us today.

Mr. Yakabuski: Thank you, Carol, for joining us again today.

One thing you touched on was that the minister shouldn't be politically motivated and that OPG, as the operator of the asset, should have the right to contradict the minister if it is clear that the minister's statements are political and not backed up by good science. Are you familiar with Bryne Purchase, the former deputy minister?

Ms. Chudy: Only in that, when I read his article, I did a slight bio of him on the Internet. So other than those two things, no.

Mr. Yakabuski: As you know, Mr. Purchase, a senior public servant of some 30 years, basically said that it is the politicization of the issue that the government is guilty of. His headline is, "Coal Isn't the Demon; Politicizing Energy Policy Is."

I'm wondering why you might feel that this government is so opposed to what the rest of the world is doing with regard to clean-coal technology, if it exists, or at least trying to find that out there. Certainly we have the ability to remove pollutants. If the government had done something prior to now—they're almost four years into their mandate. You commented on Germany. I've often heard them cite Germany and Denmark as shining examples of green power. Germany and Denmark both get about 50% of their power from coal. We're currently getting about 16% or 17%, in 2006.

1520

Is it all political on the part of this government or is it backed up by science? Or is it just simply because they

believe there's a political gain to be made regardless of the expense, regardless of the cost vis-à-vis the true cost and total cost, which we can't find out, by the way, of any of these contracts that are signed for gas generation? There's no release of what they're going to pay, when they're producing energy, when they're not producing energy. At least with the Bruce deal we know that this is what we're going to pay; we're going to pay 6.2 cents a kilowatt hour for power produced from Bruce. But for any of these gas deals that have been signed, they won't even release the numbers. Is it political or is there any science to back them at all?

Ms. Chudy: Early on, we began to realize—in fact, our group formed because of this. We thought, “All we have to do is inform people.” Our research showed it's economically good to keep coal, it's totally environmentally a good way to go, unless we switch to natural gas. So we began to ask those questions. We asked those questions of the ministry. We asked, “Where is the full study?” Even the cost-benefit study itself—which was the only document that the government provided to us—said that when they compared natural gas and clean coal, they were on a par with one another. So, is it political?

Mr. Yakabuski: We don't have clean coal yet either.

Ms. Chudy: If I can just speak to that, is it political? Unfortunately, the public has a misperception and the political will is to look out for the interests of the public, so if that's perceived as the public interest, it has to be investigated and the public has to be aware.

Mr. Yakabuski: Of course, one thing we do know is that they had an ironclad promise, commitment, undertaking. Assurances were made that they would shut these plants down by 2007—no ands, ifs or buts about it—come hell or high water. We're into 2007 and they're not going to be shut down in the foreseeable future. Quite frankly, I guess that anything they say on this subject you have to take with a grain of salt.

Ms. Chudy: Mr. McGuinty has indicated that he was ill-advised on the coal closure timetable. We are asserting that he has been equally ill-advised as to the need to close coal.

Mr. Yakabuski: You'd think he would release the names of those ill-advisers. Not at all.

Ms. Chudy: We would like to speak with them.

Mr. Yakabuski: I'd sure like to know who they are.

Ms. Chudy: I'd like to discuss with them.

Interjection.

Mr. Yakabuski: Probably invented, eh? Thank you very much, Carol.

The Chair: Thank you very much. We'll move on to Mr. Hampton.

Mr. Hampton: I want to thank you for a submission that covers a lot of ground.

I want to focus a bit on the coal issue. I think everyone understands that natural gas is a pretty risky venture and that if we move, as the McGuinty government indicated they wanted to move, to using more and more natural gas, we very quickly would have electricity rates in the

province that would be closing industrial plants on an almost weekly basis.

So let's come back to clean coal. I asked Mr. Adams this question earlier. It seems to me, given the debate that's happening around the world now about carbon dioxide emissions, that one of the challenges that has to be overcome is dealing with carbon dioxide. I think everyone accepts that you can scrub out the SO_x and the NO_x and most of the mercury, but the issue is quickly becoming what to do about the carbon dioxide emissions.

You've surveyed some literature. What do you think is the best bet for carbon dioxide emissions?

Ms. Chudy: I believe the combination of co-firing, combined heat and power. I think we also have to consider and look at the big picture. We are myopically focused on coal-fired generation. It's 13% of our province and 3% nationally. Let's cut that out. But it's going to cost us a lot. If we want to be really concerned about global warming and climate change, we have to consider the fact that in countries like China, which are not bound by Kyoto or anything else, greenhouse gas emissions are rising so fast that by 2009 they will outpace the US, and the US is at 25%. That's 10 years earlier than anyone expected. Yet we are importing so many goods, to the detriment of our own manufacturing base, from this country. Meanwhile, we're going to close our coal-fired power plants, impact our industry and our manufacturing, and yet support industries in China, India and other countries that have little thought.

Mr. Hampton: I agree that if you start mixing up some of the global market issues with some of the global climate issues and with some of the global power issues, this is a pretty big equation. But my sense is that, politically, we're going to face increasing public pressure to address the carbon dioxide issue. Saying to people, “Well, we don't have to worry about this because they're not worrying about it in Asia,” I don't think is going to pass muster with the public.

Ms. Chudy: Okay, but when we consider it's 13% of Ontario, if we look at the generating mix—we need a certain amount of either coal or natural gas. If we switch to natural gas, and we have the figures in here, it's still about two thirds when you look at the life cycle emissions.

Mr. Hampton: I completely agree with you. If you're talking about carbon dioxide emissions, natural gas is not the answer. I think increasingly environmentalists are looking at the switch to natural gas and saying, “This is not going to help us on the carbon dioxide emissions. It is very superficial.”

Ms. Chudy: Coal-fired with biomass: I know that OPG is looking at that at Nanticoke. That's 30%. I guess we can do what we can at this point in time, but can you remove a fossil fuel at this point in time? We can't. We can mitigate the damage, but our point is, if we just go from one fossil fuel to another, at very little change, that's not going to do us any good, at great cost.

Mr. Hampton: I want to ask you a question about rates because you've been in the room most of the day.

One of the things the McGuinty government has—it's bizarre when Ontario Power Generation gets about \$49 a megawatt for electricity that they produce at a nuclear station, yet Bruce Power for the same megawatt of nuclear power will get in the upper range of \$60 a megawatt. When Ontario Power Generation produces electricity at, say, one of its small hydro dams, it gets about \$47 a megawatt for that electricity. The same hydro dam now under the control of Brascan can, as a peaking plant, get four or five times that rate. Does it make any sense to you that this company over here, because it's publicly owned, is told, "Well, this is all you get for generating this megawatt of electricity," but this company over here, because it's privately owned, can get two, three or four times as much for generating a megawatt of electricity? Does that make any sense to you?

Ms. Chudy: Not at all, from a consumer's perspective, and that's a big part of our concern with a market operating system. Do one or the other. If you're going to allow the market at certain rates, then allow OPG to have the same rates. Essentially we own OPG, or the shareholder does, and whatever monies OPG makes can be turned back down to reduce debt, for innovation and research and technology, to pre-fund new plants. It's either one or the other, but give them fair, competitive market rules.

The Chair: Thank you very much. We appreciate your coming today. We've run out of time.

1530

UNIVERSITY OF ONTARIO INSTITUTE OF TECHNOLOGY

The Chair: I'd like to ask Richard Marceau to come forward from the University of Ontario Institute of Technology. Welcome.

Dr. Richard Marceau: Thank you very much. I have a copy of my presentation.

The Chair: Now, as I know you know, you have 15 minutes in which to make your presentation. That will allow each caucus, then, five minutes for any questions you might wish to take.

Dr. Marceau: Ladies and gentlemen, thank you for this opportunity to bear witness to the value of the strategic relationship which exists between Ontario Power Generation and the University of Ontario Institute of Technology.

Before I begin, let me introduce myself and provide a bit of background. I come to you not only as a member of the educational community that has a strong partnership with Ontario Power Generation, but also as someone very familiar with the electric industry. Currently, I am provost of the University of Ontario Institute of Technology in Oshawa, the province's youngest university. I hold a PhD in electric energy transmission and I have been a professional engineer since 1979. I spent 15 years in industry, including Hydro-Québec, before making the leap to academia at École Polytechnique de Montréal in 1993. In 1997, I was elected chair of the department of

electrical and computer engineering at École Polytechnique, at that time one of the three largest such departments in Canada. I became dean of the faculty of engineering of the Université de Sherbrooke in 2001, before moving on to UOIT as provost on January 1, 2005.

The reality of our current society demographics is that we have an aging population of workers, many of whom are now eligible to retire or will be eligible in the next five to 10 years. The electric energy industry, and specifically OPG, could face up to a 50% reduction in their workforce during this time period.

This is compounded by a shift in the types of employment young graduates are seeking. Increasingly over the past 20 years, there has been a lack of candidates for the skilled trades in particular and for various other types of expertise needed by the electric power industry in general. Until the founding of UOIT, a program specifically geared to producing engineers and other trained professionals for the nuclear industry never even existed in Canada. This is a tremendous challenge for any company, but none more so than one that relies on highly skilled tradespeople and highly trained personnel such as required by OPG.

Fortunately, even prior to the opening of the university, OPG and Durham College—the institution that leveraged its resources to create a university in Durham region and bring UOIT into the world—were already developing a strategy around this challenge through college programs, internships and apprenticeship programs targeted to the types of skilled tradespeople that OPG would require in the years to come.

At the same time, OPG and other energy industry companies began working with selected universities to develop programming that would train and educate future graduates with the skill sets required to meet the knowledge worker gap they knew they would face. An example of this is OPG's participation in the University Network of Excellence in Nuclear Engineering, UNENE, of which UOIT is now a member. UNENE not only funds research chairs in nuclear engineering at five universities in Ontario to support the Canadian nuclear industry, but through these chairs promotes internships and provides valuable financial aid and scholarships to attract and retain students in areas critical to OPG.

In regard to OPG's strategy, the piece of which I am most intimate with, of course, is its role in the development of UOIT. This is particularly evident in our faculty of engineering and applied science, including its School of Energy Systems and Nuclear Science, which has benefited significantly from OPG's investment of resources, both human and financial.

Since its doors opened to its first 900 students in September 2003, let me provide you with a brief overview of UOIT in its fourth academic year. We presently have 4,300 students; more than 30 undergraduate offerings; two master's programs, and six more planned for September of this year; more than 100 core faculty members, all of whom have PhDs, the only university in

the country able to make this claim; and six faculties: engineering, science, health sciences, business and information technology, education, and criminology.

From the moment UOIT came into being, senior OPG staff have worked with our professors to provide input on targeted skill sets, course curricula and technical detail to enhance the learning process. In fact, the dean of our School of Energy Systems and Nuclear Science is a former Ontario Hydro/OPG employee. Dr. George Bereznai brings a wealth of technical and training capability from his many years with the company, including numerous contacts and a deep understanding of the industry. Thanks to this, UOIT's partnership with OPG has already demonstrated significant outcomes. For example:

- Canada's first cohort of nuclear engineers will graduate in June of this year;

- students are presently engaged in or are planning capstone projects under the supervision of OPG personnel;

- UOIT is currently finalizing negotiations with another major corporation to fund an industrial research chair in the area of nuclear fuels and materials;

- UOIT has just obtained a \$250,000 commitment from a private donor in the Alberta energy industry towards the establishment of a centre of excellence in advanced energy systems; and

- UOIT is poised to submit a proposal for a master's program in nuclear engineering to its academic council by early spring.

These outcomes will benefit OPG far into the future. As to the quality of our students, this is evident from such events as the recent Ontario student engineering competition, held only two weekends ago in Ottawa, where UOIT's senior team won an admirable third place and our junior team won first place while competing against teams representing all of Ontario's engineering faculties.

You may be wondering how a university so young has already accomplished so much. The primary reason is that UOIT has a very special mission: to be market-oriented, research-intensive, to provide career-oriented pathways and to provide innovative pathways to university education for college graduates. Additionally, this mission is supported by an extremely focused strategic business plan in which we have targeted a limited number of areas and taken deliberate steps to excel in these areas through the implementation of best practices, technology and innovation.

For example, we innovate in the area of teaching and learning by being Ontario's only laptop university. UOIT's technologically intensive environment is conducive to continuous innovation in learning strategies, such as problem-based learning. Every evening, our students take home simulation software on their laptops which would often only be found in other universities' graduate computer laboratories.

We also innovate by offering rare or previously non-existent bachelor-level programs such as nuclear, auto-

motive and manufacturing engineering, health physics, radiation science, forensic science and med lab. For more traditional programs such as nursing, commerce, the sciences and others, we innovate in the areas of disciplinary content, technological content and delivery modes. We innovate in the aggressive establishment of master's programs thanks to our professors' remarkable success in obtaining research grants from various granting councils, a performance well above the national average. Because of this, we presently have two fully subsidized chairs. This number will rise to six by September of this year and to eight in the next year. All of these chairs will contribute to attracting bright students, thanks to the research infrastructure they will provide, and retaining them, thanks to the financial aid they will make available. At least three of these chairs will address areas related to nuclear engineering, radiation science and energy, all of which are of considerable interest to OPG.

Lastly, we innovate in terms of creating intellectual property and impacting the economy. We launched our first spin-off company last November and our second one is planned in June. There is something truly special happening at UOIT.

All of this activity will benefit OPG, through the training of highly qualified personnel at the bachelor, master's and PhD levels, through new IP or through the founding of new high-tech firms which support OPG's business needs.

You see, at UOIT, as in the case of OPG, the focus is on the community. In our view, a university is fundamentally a community's investment in its future and in the future of its children. If you ask anyone in Oshawa or Durham region what they think of UOIT, from the mayor to the man on the street, they will say that UOIT will some day make a difference to their community and to their children's opportunity. At UOIT, we take this responsibility very seriously.

1540

This is why UOIT will soon be the home of this country's most significant research centre in the automotive area, including a unique world-class wind tunnel, in partnership with GM, the province and others, to provide needed support to Ontario's important automotive manufacturing industry.

This is also why UOIT is the only university in Canada spearheading a major research effort in sustainable hydrogen production through the thermo-chemical catalysis and separation of steam from nuclear power plants. We have been earmarked to receive a major \$5.5 million grant from the Ontario government, with AECL, OPG, Bruce Power, Argonne National Laboratory and other Ontario and European universities as partners. In this way, we will leverage our recognized expertise in nuclear power and energy systems to solve, with our partners, a key problem in the area of global warming and climate change.

This is also why UOIT has created the country's first observatory on sustainable urban communities, in order to understand the principles of how some communities

thrive despite natural catastrophe or economic, social, military and technological upheaval, and others do not. This information will then be made available, through the observatory, to our own communities.

To accomplish so much before the end of its fourth academic year, UOIT has become both a complex organization and a tightly run business. UOIT has developed a business model to guide its development, and constructed a strategic business plan to achieve its ambitious goals. UOIT has also partnered with key OPG personnel to aid with its governance. OPG senior vice-president Pat McNeil has been a long-time member of the Durham College board of governors and is a founding member of the UOIT board of governors. Presently, he is chair of both boards and is providing business expertise and guidance to help us navigate the challenges we face as a new organization.

For UOIT to educate and train future graduates who are work-ready and able to take over from their more senior, experienced predecessors in the energy industry, there is a need for resources, including financial. A university needs equipment, the ability to attract good professors and an environment that nurtures learning. In 2005, OPG committed to a \$2-million-a-year, five-year investment in UOIT totalling \$10 million for the essential bricks and mortar. On March 30, when we hold the official opening of UOIT's OPG engineering building, what we will be celebrating will be less about the building itself and more about what is going on inside. Without this capital funding, UOIT simply wouldn't be able to deliver on OPG's needs in the critical area of succession planning.

These types of investments are not unique to Ontario. While in Quebec, I personally spearheaded the creation of a similar initiative for training electrical engineers specialized in the power area, bringing together a consortium of five universities to educate and train 40 power engineering graduates a year over a seven-year time span for Hydro-Québec and other industry players. In exchange, the utility made an investment of \$4 million in capital, equipment and operations.

So you see, strategies such as investments in educational institutions to address succession planning are being used nationally and elsewhere, which only underscores the importance for OPG to ensure that they are capturing a piece of that market of bright, young minds that are much sought after. In 2007, the company will hire 90 new university graduates, and UOIT will contribute to the available resource stream not only through its engineering graduates but by adding value to the partnership through its science, health sciences and commerce graduates. Additionally, UOIT is working with OPG in the development and future delivery of nuclear regulatory education and training for its personnel, designed to enhance the safe and economic operation of nuclear power plants. Clearly, OPG's business interests of safe, reliable and economic operation will benefit.

In closing, my presence here today speaks to the great value placed by UOIT on its partnership with OPG. I also

wish to affirm UOIT's deep commitment to ensuring the sustainability and ensured growth of the electricity, nuclear and energy industries in Ontario through education, research and innovation. UOIT is extremely grateful for its partnership with OPG. Through this strategic partnership, UOIT plans to make a measurable difference to the continued quality of life and economic prosperity of Ontario. Thank you for your kind attention.

The Chair: Thank you very much. Each caucus has a couple of minutes. Mr. Yakabuski.

Mr. Yakabuski: Thank you very much, Mr. Marceau, for joining us today. In your address you said how people say that someday UOIT will make a difference in their community. I would humbly say that it already has. Clearly, investing in that facility and making it happen is one of the many things that the previous government was very proud of.

I'm going to ask you a hypothetical question. You are essentially a research facility. You do piles of technological research and stuff like that and clearly are becoming leaders in the field. If you saw a most abundant source of readily available, accessible, low-cost energy in the world but the attached baggage with it was that it was considered to be dirty and had a lot of emissions, as a researcher, would you think it would be a good investment to try and find a way to be able to use that energy source at a better level of emissions than its much higher-cost alternative? As a researcher, would you think that that would be a prudent step to take or, just because it's dirty, "Let's forget about it. There's nothing we can do about it. We don't do research. We just say we do research, and if something's dirty, we're not going to touch it"?

Dr. Marceau: That's a very good question. I think that only fools don't change their minds. We are learning all the time and there is new information that comes out all the time. What was bad at some point in human history becomes good and what is good becomes bad. That's because we learn more, we understand better and we evolve our technology and bring our civilization to the next technological level.

To answer your question in a very general sense, I would simply say that when we have information that enables us to act in favour not just of the public, but I would argue of our civilization, and take our civilization to a higher quality of life, a cleaner kind of civilization and more efficient from every perspective, including economic, there's no reason why we shouldn't be doing that. However, we are in a transition period where there are things that we know and there are things that we don't know. I wouldn't want to engage on a specific example without perhaps having a little more clarity on where you would like me to discuss a little more.

Mr. Yakabuski: Do we have two minutes or five minutes, Chair?

The Chair: I'm sorry, you have another minute.

Mr. Yakabuski: Okay, now we're going to be specific. We're going to say, are we squandering an opportunity here in Ontario, with the amount of coal that

exists in the world, if we simply say, “Coal is bad and we don’t want to touch it. End of story”? Or should we be trying to do what some of the rest of the industrial countries in the world are doing and exhaust the possibility of whether there is a way to use coal to generate power and electricity and energy in a clean fashion, at least one that would mirror or exceed that of natural gas, which is a far higher-cost alternative, and less abundant as well?

Dr. Marceau: I’m going to answer on the basis of having been for some time in the energy area and for some time in the university. My area of expertise is not coal, but I’ll try to answer based on the environment that I’ve been in.

1550

If you were to invest in new infrastructure for coal, that’s one thing. Rather than investing in combustion, I would invest in nuclear power because that is the least greenhouse-gas-producing technology in the world presently. It’s the only one we’ve got that doesn’t produce greenhouse gases. Nuclear fission is a transitional technology. In 50 years’ time, we’ll hopefully have another alternative, but right now that’s the one that doesn’t produce greenhouse gases.

Now, if you were to say, “We’ve got coal plants. We’ve made very important capital investments upfront; they are there, they are operating. Can we make an incremental investment in our coal plants to make them cleaner?” the answer is: That’s smart, because it costs less to do that than to build a nuclear power plant, to build a brand new gas power plant or any other power plant for that matter. So it’s a question of looking at it from an incremental perspective. If you’ve made an investment upfront, it makes sense to make a small additional investment to make it more environmentally acceptable. If you were to create a brand new power plant today out of coal, I would argue there are other alternatives.

Mr. Yakabuski: Thank you.

The Chair: Thank you very much. Mr. Hampton.

Mr. Hampton: Thanks very much for your time here. I wanted to ask you this: How long did you work for Hydro-Québec?

Dr. Marceau: I worked for Hydro-Québec from 1984 to 1990. Then I did my PhD full time from 1990 to 1993 while solving one of Hydro-Québec’s major problems. So even though I was a student, I was deeply involved with Hydro-Québec for almost 10 years.

Mr. Hampton: Then, when you went to the École Polytechnique de Montréal and then to the University of Sherbrooke, did you have a continuing working relationship with Hydro-Québec?

Dr. Marceau: Yes, I did. Some of my research students did projects with Hydro-Québec’s support. I got software from Hydro-Québec. I got research grants and contracts from Hydro-Québec. That relationship lasted until I became chair of the department. I don’t think that you can serve two masters at some point. Either you choose to be a manager or you choose to be a researcher,

but you can’t do both. So when I became chair, I decided that I would make the commitment and try to learn how to manage people, which is a lot harder than managing things.

Mr. Hampton: In your work with Hydro-Québec, would you say it is a well-run organization?

Dr. Marceau: The answer is yes. What is very, very interesting about the difference in Quebec with respect to Ontario is that in Quebec they have had the hydroelectric resource to work with for decades, and they still have some left that they can exploit. So they’ve been able to invest less in the production of electricity and they’ve used a very traditional form of producing electricity, if we can put it that way, that’s basically less because it’s technologically intensive to some degree, and they’ve invested a lot of money in the transmission system. So one could argue that they have a lower-technology hydro generation system, even though there is a lot of technology there—don’t get me wrong—and they hire technology transmission systems in Ontario. So if you compare the two very roughly—

Mr. Hampton: One of the issues that OPG is trying to resolve with the Ontario Institute of Technology is of course the training of competent people and the retention of competent people. Was Hydro-Québec able to retain the skilled workforce, the expertise, the brains, the knowledge? Because it strikes me, as you point out certainly on the transmission side and on the power planning side, it’s a very complex outfit.

Dr. Marceau: Yes. In 2001, when this project that I spearheaded finally came to fruition, around that time, Hydro-Québec looked at the future and saw that, just as in Ontario, about half of its electrical engineers would basically be retiring in the next 10 to 15 years. But, worse than that, the universities were losing their electrical engineering professors in the power area even more rapidly because—not just in Quebec but throughout North America—the oldest electrical engineers were power engineers. What was happening was that the universities were saying, “The utilities aren’t hiring, they aren’t sponsoring research, and there’s all this activity in communications, information technology, computer hardware and software; there are a lot of other areas that we want to develop,” so they’d replace power engineers with engineers in the electrical area who would be in just about any area except for power engineering. So basically most engineering faculties were phasing out people in their power sections, and Hydro-Québec was saying, “My goodness, how are we going to operate the power system 10 years out with all these people going away?” These are people who were taken on at 21, 22, 25 years old, so 25 or 30 years later, a lot of them had a lifelong career with Hydro-Québec. They were able to take their retirement and leave. The whole industry, not just in Quebec but in all of Canada, on the electrical engineering side, was threatened with the tremendous dearth of electrical engineers, and Hydro-Québec was the first to move in this area.

It’s funny, because 40 engineers a year is a modest number of engineers, and it’s a modest number of

engineers for the whole industry in Quebec. More than that, it's a very traditional area. It's the oldest electrical engineering area, even though there's tremendous technology in that area, and I love it. As I like to say, my area is the Jurassic Park of electrical engineering, but there's a lot of technology in Jurassic Park even so. They decided to act, and they put in \$4 million for seven years to graduate 40 engineers, of whom they hoped at least half would go to Hydro-Québec. So it's a tremendous investment for relatively few engineers and over not that long a time. By the way, what we did was we leveraged that \$4 million to obtain another \$4 million from the Canadian Foundation for Innovation at the federal government. So these are the kinds of things that we hope to be able to do in the future with our OPG partnership.

The Chair: We'll move on now. Mr. Leal.

Mr. Leal: It's good to have you with us today. I had the opportunity to tour the University of Ontario Institute of Technology with your founding president, Gary Polonsky, because of the relationship they have in my community, in Peterborough, with Trent University.

We had officials, chair Jake Epp and his colleagues, from OPG, and they did describe to us this morning two of their thrusts: of course, waterwheel generation and nuclear power. How is your university going to match their human resource needs in the number of people that you're going to graduate over the next number of years?

Dr. Marceau: Presently we are graduating, on average, I would say, 40 nuclear engineers a year, starting this year. In addition to that, starting next year, we have a small class of electrical engineering, between 20 and 30 students, that will be graduating, and a significant number of those will be in the area of power engineering. We have, on average, about 10 radiation science graduates who will start graduating this year. We have a few medical health physics graduates who start graduating this year. Let's say that, between radiation science and health physics, we'll have another 12 to 15 graduates a year. In other words, if you add up these numbers, we're

talking about 60 to 70 graduates a year who could potentially work for OPG and certainly for the industry. That doesn't count the commerce graduates who will be hired by OPG who will know something about the nuclear power industry; the health science graduates, the nurses, who could potentially work for OPG as well; and other graduates whom they might need from that region.

The other side of it is that by September of this year, we'll have about six research chairs up and running. This is a remarkable number, given that we only have 100 faculty. When one considers that 6% of your faculty have research chairs and you're not four years old, it's a pretty interesting datum about what's going on over at our place. But with these research chairs, we'll be able to train master's and PhD students and graduates who will be able to help the nuclear industry directly.

One of the things that we are leveraging presently is the fact that because we have such a strength in nuclear power and other areas of engineering, we're working on producing hydrogen sustainably.

Mr. Leal: Have I got a couple more minutes?

The Chair: Well, we have come to 4 o'clock.

Mr. Leal: Okay. Thank you, Madam Chair.

Thank you, sir.

The Chair: Thank you very much for coming today. We appreciate your being here.

This concludes the official proceedings of the committee, but I would ask members to just wait for one moment. We have some scheduling issues that we need to discuss.

Dr. Marceau: Thank you very much, Madam Chair. I would just like to take the opportunity to salute the MPP for Nipissing. I was born in North Bay. I grew up there 19 years and I left for 30 years. I'm back in Ontario for two years now; it feels good to come home.

Interjections.

The Chair: Thank you very much. The committee stands adjourned.

The committee adjourned at 1603.

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CONTENTS

Monday 26 February 2007

Subcommittee reports	A-429
Intended appointments	A-429
Mr. David Wright	A-429
Agency review: Ontario Power Generation	A-431
Ontario Power Generation	A-431
Mr. Jake Epp	
Mr. Jim Hankinson	
Mr. Pierre Charlebois	
Mr. Donn Hanbidge	
Mr. William Sheffield	
Society of Energy Professionals.....	A-447
Mr. Andrew Müller	
Association of Major Power Consumers in Ontario	A-452
Mr. Adam White	
Town of Pickering	A-456
Mr. David Ryan	
Energy Probe.....	A-460
Mr. Tom Adams	
Clean Affordable Energy Alliance.....	A-463
Ms. Carol Chudy	
University of Ontario Institute of Technology	A-468
Dr. Richard Marceau	



A-29

A-29

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Standing committee on government agencies

Agency Review:
Workplace Safety
and Insurance Board

Comité permanent des organismes gouvernementaux

Examen des organismes
gouvernementaux :
Commission de la sécurité
professionnelle et de l'assurance
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

Tuesday 27 February 2007

Mardi 27 février 2007

*The committee met at 1002 in room 151.*AGENCY REVIEW
WORKPLACE SAFETY
AND INSURANCE BOARD

The Chair (Mrs. Julia Munro): Ladies and gentlemen, I'd like to welcome you all this morning to the standing committee on government agencies. By way of introduction, I would just ask you to identify yourselves for the purposes of Hansard. As you know, we have the two hours and you will have the opportunity to provide some remarks and then we will divide the time amongst the caucuses in rotation.

Mr. Steve Mahoney: Thank you very much, Madam Chair, and thank you for the opportunity to come before you here this morning. Let me begin by introducing the folks here with me. Jill Hutcheon is the president and CEO of the WSIB. On Jill's right is Malen Ng, who's our chief financial officer. On my left is John Slinger, chief operating officer. We also have our newly hired chief of prevention in the room, Tom Beegan, who's with us as well this morning. I'm also pleased, Madam Chair, to tell you that I have a number of members of my board who are in attendance this morning. We have Marlene McGrath from London and Loretta Henderson from Windsor. I think Ken Deane is here from the health care sector, working out of London now as well. Others may be joining us as the morning progresses.

As chair of the Workplace Safety and Insurance Board, I'm absolutely delighted to have the opportunity to appear before this committee on behalf of the 4,283 dedicated men and women who work diligently in Toronto and 14 regional offices providing a myriad of services to well over 200,000 employers. In 2006, the WSIB provided benefits and services to over 550,000 injured and ill workers, surviving spouses and children.

This organization is considered the third-largest group insurance company in Canada. It's a complex business that has a sound and stable financial base with a high standard of accountability to its stakeholders. The WSIB is also directly accountable to the Ministry of Labour in ensuring that it carries out and fulfills its mandate. The MOU between the minister and myself as chair establishes a number of requirements and standards, and therefore the WSIB does not self-regulate.

The WSIB manages over 350,000 claims a year, making over one million decisions a year and in 2005 paid out in excess of \$3 billion in claim payments. The WSIB's strength comes from its employees, who are proud and committed to service excellence; treating injured workers and their families with dignity and respect; and ensuring the WSIB is second to no other jurisdiction in the areas of service delivery, research, prevention and return to work.

Since I've been appointed—about eight months ago—I've had the opportunity to travel to each of our 14 offices across the province to meet with staff and stakeholders, and I can assure you that they are truly a dedicated group of men and women.

Since the creation of the board in 1915, the WSIB continues to serve Ontario workplaces by providing no-fault insurance that protects employers from litigation. With the addition of our prevention mandate in 1998, the WSIB also provides access to training programs, products and services. Our websites, our publications and our industry-specific educational material provide workers and employers with key information on health and safety awareness.

To be frank with you, the WSIB has had its share of difficulties in the past. It has been the subject of some pretty heavy criticism over the years from all sides, including me when I sat in the Legislature and wrote a report entitled *Back to the Future*. Of course, now that I'm in this job, I've asked everyone to shred that particular document.

But I must really emphasize the words "in the past." In 2004, following concerns expressed by stakeholders and the former Minister of Labour, the WSIB was the subject of a comprehensive and objective third party audit. All of our books were opened and a team of auditors reviewed our operating procedures and practices. Sixty-four recommendations were made and the WSIB developed a comprehensive and strategic response approach that included the mapping of tasks to address each recommendation. Under the leadership of our president, Jill Hutcheon, who also served for two years as interim chair, the organization took stock, identified opportunities for improvement and, frankly, began to turn the corner. We have moved forward, embedding sound management practices and financial controls, keeping in mind our fiduciary responsibilities.

This past summer, a follow-up audit was conducted to see how effectively we responded to the initial audit and

recommendations. I'm pleased to say that the report said that the WSIB had "established many business processes and controls that are adequate and appropriate to promote sound business practices," and that all of the recommendations have been addressed.

Since my appointment by the Premier in May of last year, I have had the opportunity, as I mentioned, to travel from Windsor to Ottawa, Thunder Bay to North Bay, and all points in between, and to meet with many injured workers, employer groups and many of our stakeholders, such as the CFIB, the Ontario Federation of Labour, the CAW, COCA etc., to hear first-hand their concerns and get their advice on how we can improve our system. I wanted to roll up my sleeves and get out there and listen to the people and what needs to be done. Frankly, with the greatest of respect to this city, my view is that this is not the province of Toronto and it was important that I go out and meet the people where they live and work.

In 2007, we were able to hold the line on premium rates while ensuring that injured workers' benefits and services were not being compromised. We also continue to manage the unfunded liability with a goal of eliminating that unfunded liability altogether by 2014, and I would add "ish" to that.

We continue to work with workers and employers to create a health and safety culture in workplaces across Ontario. Our goal is to change the behaviour and attitudes that allow people to believe that workplace accidents just happen. That's why we launched our hard-hitting campaign in October 2006 with the theme "There really are no accidents." I'm sure you saw some of the ads. This campaign has gotten people talking about workplace health and safety, and we've done it with an advertising budget that is equal to 0.12% of our total revenue. That's one-thirtieth, by the way, of what the LCBO spends or one-fiftieth of what a similar-sized publicly traded company spends on advertising. But, to me, what we're trying to achieve in terms of ensuring that workplaces are safe and all workers return home to their loved ones at the end of the day without injuries or illness is priceless.

Mass media is the most effective tool to send our messages and achieve results. We all know that television and, increasingly, the Internet make a big difference. Preliminary survey results indicate that 63% of employers and 64% of workers strongly agree that the ads caught their attention. This is more than in any previous year. More than ever before, employers are saying that they have made safety improvements in their workplaces.

In 2006, we provided benefits to almost 5% of Ontario's population, more than half a million men, women and children. Ensuring that workers and their surviving dependents receive the best possible service is one of our fundamental objectives, and this includes ensuring that injured workers' benefits are at adequate and secure levels and that injured workers receive what they are entitled to under the legislation which governs us.

1010

For instance, in 2006, we increased the allowance that injured workers receive to put clothing on their backs by

10%. Also, the adjudication best practices group, which is comprised of WSIB and external stakeholders, continues to meet regularly to identify ways that we can continue to be better, more efficient and effective for the workers of Ontario. Best practices improvements have been made in the areas of return to work, the use of medical evidence in adjudicating claims, maintenance treatments and extending time limits to appeals from six months to one year.

There have also been many benefit policy improvements made over the last few years to ensure injured workers and survivors are treated with dignity, fairness and respect, including:

- removal of the cap on burial expenses to ensure survivors are able to bury their loved ones as they see fit and not having to worry about WSIB cost restrictions;

- extension of monthly benefits for dependent children in school from 25 to 30 years of age to recognize, as many of us would know, that children today have a longer dependency on parents;

- changes made in the way the WSIB calculates benefits for workers and survivors who also receive CPP benefits, which has placed more money in the pockets of almost 4,000 workers;

- provide \$6.5 million in funding to the Occupational Health Clinics for Ontario Workers.

We continue to invest in primary research to improve the care and treatment that injured workers receive and to promote cutting-edge research into workplace health and safety. In 2006, this translated into \$2.4 million in research grants. Late last year, I participated in opening CREIDO, the third WSIB-funded centre of research expertise, where experts in the field will help reduce the long-term physical effects of injuries on Ontario workers by developing new treatments and rehab options. This kind of investment pays off by improving an injured worker's ability to return to safe and sustainable employment.

We continue to take a leadership role in the area of prevention with two other research centres of expertise, one at the University of Waterloo, which looks at primary prevention of musculoskeletal disorders, which currently account for 43% of claims registered at the WSIB. Our third centre is housed at St. Michael's Hospital, which is focused on the prevention and treatment of occupational disease, an issue that's going to become more and more urgent and important on our radar screen.

Getting back to work after an injury is important to workers, and not just for financial reasons. Getting back to work in a safe and timely fashion brings a sense of dignity and empowerment that benefits the worker, the worker's family and the employer's business. Treating all of our clients with dignity and respect is the cornerstone of our customer service approach. We developed an award-winning worker sensitivity training course to help our front-line staff enhance their ability to understand each worker's unique perspective. Providing workers with individualized support is a priority for the WSIB. We speak our clients' language literally, offering inter-

pretation and translation services in over 40 different languages. Many of our publications are also available in audio and Braille format and we have implemented outreach programs to ensure that the WSIB services are accessible to people with disabilities.

We meet regularly with worker support and advocacy groups, as I do personally as well, like Bright Lights and Women of Inspiration, to hear their concerns, understand the issues that are important to them, update them about our programs and services and find ways to reach out and resolve issues within our mandate.

We also actively participate in and organize stakeholder working groups to get input on how we prioritize and address their issues and concerns, as we constantly strive to communicate with our clients and seek their input. At the same time, our dedicated service delivery teams work with employers to provide specialized help with health and safety, workplace insurance, effective health care and return to work. For smaller firms, our small business services team provides one-on-one support for everything from filling out forms to implementing best practices that fit their very unique business needs.

I want employers to realize that WSIB is, in fact, a good deal. We offer no-fault, reliable benefits to their employees and a number of important services, including prevention initiatives and promotion, monitoring the quality of health care and return-to-work support and research. At the same time, we provide funding for 14 HSA health and safety organizations which provide training programs, products and services to Ontario employers and workers alike. The way I see it, the WSIB premiums are actually an investment in health and safety and an increase in the quality of life for a business's most valuable asset, its people. That, with the value added of our service and programs, not to mention the financial incentives for good health and safety performance, shows that WSIB belongs on the asset side of the ledger sheet.

We know that all of our efforts and initiatives are working because customer satisfaction levels have increased over the last few years. Since the first survey done in 1999, the number of employers who say that they are satisfied with our services has risen from 65% to 79% in 2005. Among injured workers, 69% say they are satisfied with our current service, compared with only 59% six years ago. Also, in 2005, the overall opinion of the WSIB as an organization went up for both employers and workers: It has increased to 84% for employers and 77% for workers. Frankly, we are more open and transparent than ever before. We're using our many different vehicles to communicate and consult with our stakeholders, and will continue to do so.

As an aside, I can tell you that in my day in this Legislature I found that the change in the atmosphere in MPPs offices and the communication that I get from many of you is night and day to what it was in the early 1990s, when frankly it was literally a nightmare.

To make things happen, I believe you need to strike a balance between what is right for workers and employers

and do it in a fiscally prudent and responsible manner. It's tough achieving consensus with diverse stakeholders who have different needs and different pressures at different times. We do our best to balance the interest of workers, employers and the workplace safety and insurance system. We consult and we listen, but everyone knows that sometimes, in trying to find the best possible solution, you simply can't please everyone; I don't think I need to tell you folks that. I can tell you, from where I sit, we are not afraid to make the tough decisions.

We may have differences of opinion from time to time, but we have common goals from which to build a good, solid foundation for the future. The complete eradication of illness, of injuries and fatalities in the province—zero injuries, zero illnesses and zero fatalities—is the only acceptable number when it comes to workplace injuries, illnesses and fatalities. The WSIB pays out billions of dollars in compensation for workplace injuries, illnesses and fatalities every year—that's another number that should be zero—and then, of course, there are the social and the human costs.

As chair, frankly I see myself, at least during my time in this position, as a custodian of the present who must ensure proper stewardship now and for the future. I want to do all I can to support the system in promoting health and safety in Ontario's workplaces. I want all of our system's partners and our stakeholders to become leaders in injury and illness prevention. I want to help employers reduce accident frequency and duration so they can put some of what they're paying in premiums back into their businesses. I want to ensure that every worker in this province receives the benefits they are entitled to without having to fight for them. I can assure you that in my time as chair, and I know I speak for the senior staff, we consider the injured worker to be our number one priority, our number one mandate, while managing in a fiscally responsible manner.

In wrapping up, the WSIB has and will continue to have a vital role to play in making a positive difference in the working lives of the people of Ontario, in making Ontario's workplaces the safest in the world and in encouraging future investment and growth in Ontario by making our workplace safety and insurance system a model for other jurisdictions. As chair, I'm keenly aware that this organization will continue operating long after I leave, and the board of directors and the senior management team and I all realize that the momentum must and will continue.

Thank you for the opportunity to make these remarks. I and my staff would be pleased to answer questions.

1020

The Chair: Thank you very much. We will follow yesterday's practice of a 10-minute rotation. This morning we'll begin with the NDP and Ms. Horwath.

Ms. Andrea Horwath (Hamilton East): Thank you for your comments. I'm very pleased to be here. A number of the remarks that you made were talking particularly about prevention of disease. I'm wondering if you have an understanding of how many claims the

WSIB is currently processing in regard to occupational disease.

Mr. Mahoney: I'll just get the actual statistics for you, if I might. I can tell you that in total processing—I'm looking for the actual number—we did analyze 100 random claims previously denied and found that only five were likely to be allowed under the articulated ODAP principles. We do know that it's increasing. We are meeting with the firefighters, as you would be aware, and we're aware that you have a private member's bill that deals with that particular issue.

Frankly, in 2005, we somewhat tragically had to bury 343 people in the province of Ontario. Eighty-four of those were from fatal incidents in the workplace and the rest were from occupational disease. You would know that there can be a very lengthy latency period involved in some of those that can last 20 and 25 years, perhaps even longer, when cancers finally end up taking the life of that worker. We know it's a very major problem.

Ms. Horwath: You were starting to look through your records, though. Do you have a handle on the actual figure of how many claims are currently being processed?

Mr. Mahoney: Approximately—

Ms. Horwath: But maybe I'll finish, because what I'm trying to get at is the numbers that are being processed. Within those being processed, how many are in the review stage or the appeal stage—do you see what I'm getting at?—to get an understanding of where things sit currently with occupational disease in the processing at the board.

Mr. Mahoney: I'm going to ask my staff to give me some help, but I can tell you that there are roughly 20,000 claims from 2005 under occupational disease. Exactly how many have been approved and how many are still in process or in adjudication, frankly I don't have that number. Do we?

Ms. Jill Hutcheon: John will answer that.

Mr. John Slinger: We actually received—and the numbers that Steve has quoted include our surveillance numbers which come in where there's been an incident of exposure but if there isn't necessarily a claim—I believe, 13,000 occupational disease claims in 2005 and about 14,000 in 2006. Generally, those claims are dealt with relatively quickly. I think 60% are dealt with within four weeks and 74% are dealt with within eight weeks.

However, as you may know, our challenges come from those that in fact go longer. Typically, the challenging cases for us are the cancer claims and the cases that in fact, as Steve has mentioned, have long latency periods. As a result of those long latency periods, the disease doesn't actually appear in some cases until long after the exposure and long after the employer even existed where that exposure occurred. Those are the cases that we are challenged with, because obviously we need to look at the occupational history, we need to look at the history of exposure, we need to look at the medical history and the non-medical history—other, non-work-related factors can result in disease—and we also need to

look at the science. I will say that those are our most challenging cases. While there are cases that we deal with relatively quickly, the most challenging cases do take longer. Certainly we have several clusters that have occurred in this province, and some of those cases we are still resolving—the most complex few cases that remain.

Ms. Horwath: So of the 25%, the ones that take longer than the 60% which were about four weeks and the 74% which were eight weeks—the tough ones, if you want to call them that—what would be the average length of processing for those kinds of claims? Is there one? What would be the mean, the median?

Mr. Mahoney: We can certainly get that information for you, but I don't have that readily available to me.

Ms. Horwath: Madam Chair, can I ask, then, that that particular information be provided?

The Chair: Certainly, and we'll circulate it to all the members of the committee.

Ms. Horwath: All right. Is there any particular one that stands out? We see the statistics increasing in Ontario and in Canada, across the world, in fact, around particular occupational diseases. I'm speaking of cancer specifically; not specific to firefighters, though, just overall as a growing occupational disease or a growing issue that's related to occupational disease. I'm wondering, is there one particular case that stands out as being, "Here's the longest case we have on record; everybody knows this case, it's been around forever and it's been through so many CEOs or so many chairs of the board where this case continues to be outstanding."

Mr. Mahoney: I might just add to that, and maybe John has something he wants to mention here, as opposed to a specific case, that the issue around asbestos clearly has been the biggest problem, the longest latency period, where we continue to see people suffering from asbestosis and other forms of cancer that were incurred. In fact, in Ontario, as I'm sure you know, asbestos mining is no longer done; it is in the province of Quebec but it's not in this province. So we can hope that we're going to see a reduction in the number of new cases. But even with that there will continue to be, I'm sad to tell you, hundreds of workers who will come down the pipe over the next number of years as the disease grows and as they wind up dying, frankly, from the cause of that.

Ms. Horwath: I realize that this is a big issue. Of course, I became more familiar with it through the Bill 111 process and dealing with some of the firefighter issues. I found out in those situations that there are claims that are sometimes 10 years outstanding, even longer, where claimants are waiting still, or their survivors are waiting still, to find out whether the claim is eventually going to be approved. How many claims would you say exist, firefighters and others, that are beyond the 10-year period currently?

Mr. Slinger: I can't actually tell you that I'm aware of any that have gone beyond 10 years, at least in terms of initially being adjudicated. I can say that there are pockets of cases within some of the clusters we've done. For example, of the 850 occupational disease claims that

came out of Sarnia in the late 1990s, there is a handful of those cases. I can think of a number that were heart disease cases, and the issue was around heat stress and the contribution of heat stress to those cases. I think there are about 18 of those.

We have done a number of scientific studies and we've looked at those cases, but we've also reached agreement in some cases with the union involved; for example, with the CAW. If in fact we are at the end of gathering the information and we would be disallowing the claim, we have reached agreements with several unions, including the CAW, to give them additional time to respond. In other words, if they'd like to gather additional information, they can, and that extends some of those cases longer.

I mentioned the situation in Sarnia, where there's still a handful of cases. You're probably familiar to some extent with the Dryden situation, where those claims were coming to us probably between 2003 right up to until 2006. We still have a number of those cases. For example, there are 13 neurotoxicity cases where we have had real challenges getting effective medical assessments done. We have now found the specialist who we believe would best be able to assess those cases. So far, we have simply had insufficient medical assessments to really resolve those cases. Our decision is around do we deny those cases and say we can't find information that would support them or do we continue to look for information? In that case, we have continued to look for the best possible medical assessment. Those cases are now all being seen at McMaster University. So there are pockets of cases that for various reasons take longer to resolve.

Mr. Mahoney: I might just add very briefly that beyond the adjudication period there could be an appeal period. I have actually heard from injured workers—not a lot; in one case in Thunder Bay, as a matter of fact—where it took seven years to get a decision through the appeal process. The decision turned out to be favourable, which made it even that much more frustrating for that worker. Our average time of appeal is less than six months, but every once in a while we run into these terrible stories and, frankly, we want to try to eradicate that because it's just simply unfair to have people waiting for decisions that length of time.

1030

Ms. Horwath: I just have one last question on this line and then I'll move on. We all know about the report that Mr. Racco presented to the minister, and at the end of that report, in tab 3, there's a reference to a report, which was expected in the winter of 2006, that was commissioned to review the links between firefighting and the 14 types of cancer. It's reported in the tab. It says that you're expecting that to come in the winter of 2006, and I'm wondering if you've received it yet.

Mr. Slinger: We haven't yet received the report and we were having scientific reviews done on 14 different cancers that had been identified as top priorities from the firefighters.

Ms. Horwath: Is it expected any time soon?

Mr. Slinger: Yes, it is. It's expected shortly, but I don't believe we've received it yet.

The Chair: Thank you very much. We'll move to the government caucus.

Mr. Mario G. Racco (Thornhill): Thank you, Chairman Mahoney, and let me welcome your team here at Queen's Park. We appreciate your being here.

I have a number of questions. The first one is, how is the WSIB different from a traditional insurance provider, and which provides better value?

Mr. Mahoney: I've been saying, as I travel around the province, that one of my goals is to have the employer community, if they had a choice of buying coverage of this nature from five or six different companies, which of course they don't—but if they did, they would choose the WSIB. One of the most important things we provide that others would not is the agreement with the workers that they will not sue. So the right to litigation is not on the table. Frankly, I believe that's a huge benefit to the employer community and a major concession on behalf of workers. As you would know, this social contract, if you will, was put into place in 1914, when the system was funded. It was visionary then, but I think it's extremely important.

The other ways that I think we're very different—the consultation. I've somewhat jokingly said that if we decide to change the size of the paper clips we use, we're going to consult for six months. That's obviously a bit of an exaggeration, but there is a tremendous effort on the part of the entire organization to consult with injured workers, with stakeholders, with health and safety organizations, with employer groups, and there are, as I said in my opening remarks, many, many different groups with diverse interests and opinions and views, and sometimes it's hard to get a consensus. But we work very hard at trying to consult and listen to people, and I think it shows in our policies.

Mr. Racco: What is the mandate, the role and the purpose of the WSIB?

Mr. Mahoney: The mandate is to provide a system of no-fault health insurance, return to work and benefits where required to workers who are injured or become ill on the job site. But I think our mandate has grown somewhat even though it may not be official in writing, and our mandate is basically characterized by our current campaign, which we call the Road to Zero. The fact that we continue to lose 100 people every year, on average, in fatal incidents in this workplace in Ontario would shock people in other parts of the world if you told them that. With a province this modern, with the technology, with the knowledge, the education capabilities that we have, people simply wouldn't believe it.

I really believe that our number one mandate is to serve the injured worker, to eliminate fatalities in the workplace and to drive—it's not rocket science, as I've often said; if it were, I likely wouldn't be the chair—the number of incidents down. Our goal is zero, and people have said to me that that's not realistic. Well, I say to them it is. I can take you to many companies—I can take

you up to Thunder Bay, to Bombardier—who have driven their injury rates down and eliminated their fatality rates; I can take you to places all across the province where they have successfully done that.

So the mandate is simple in terms of what we are legally required to do, but it's much more complicated because we have a strong commitment, both socially and fiscally, to serve the injured worker and to succeed in our Road to Zero.

Mr. Racco: Another question: You provide funding for a specific purpose. To which institutions does the WSIB provide funding?

Mr. Mahoney: We fund 14 what are called HSAs, health and safety associations, to the tune, I believe, of \$86 million every year. We provide several million dollars for research organizations. Three of them I named: one at the University of Waterloo, another one in the city of Mississauga, and another one at St. Mike's hospital. Research is really important so that we can try to find new ways to get workers back to work, and preferably to prevent the injury from occurring in the workplace in the first place.

I've met with injured workers, and it is heartbreaking when they have to lie on the floor because they can't sit or stand for more than five minutes. I'm sure you've all experienced that in your constituencies, and I really believe it's important that we continue to fund proactively organizations that are going to deliver training, products and services to employers to help them get on board our program, get on the Road to Zero, and understand that prevention is the key.

Mr. Racco: Okay. And why do we need a workers' compensation system in Ontario?

Mr. Mahoney: I go back to my time in the Legislature, Madam Chair, when I had a full-time staff person who did nothing but WCB issues. Some of you may still have that, but my sense from those of you I've heard from is that it's less so today, that the WSIB is providing a service of good-quality health care. By the way, we're running some health care pilot projects to try to determine how we can better serve injured workers. You should know that we spend almost half a billion dollars a year on health care, and it's not through the Canada Health Act exclusively. Our number one mandate, again, when the injury occurs, is to get people rehabilitated and back to work.

The protection of employers from lawsuits—you can imagine particularly small business. We often hear from some small business organizations that we're a burden to them in terms of bureaucracy, and I understand that. I'm a small business man myself. We don't want to be a burden; we want to be a partner. That's why we provide one-on-one service to the small business community to sit down and assist them in filling out forms. As simple as that may sound, when you're busy trying to keep the wolf away from the door, another form from another level of what is perceived as government can be very frustrating.

We're not there yet. We've met with the minister, Harinder Takhar, to discuss how we can better put a

package together to serve small business, because, generally speaking, the large businesses take care of these issues. They can afford to have full-time staff on board who are health and safety specialists.

But in answer to your question, why do we need it? We need it to protect all the business community from litigation. We need it to protect injured workers from being ignored and simply thrown on the garbage heap when they get injured, or being left out of a job. We need it to help provide labour market re-entry.

I know there are problems in those areas, and I don't want to sit here and come before you and say that we don't have issues at the WSIB. This afternoon you will hear from stakeholders who I'm sure will tell you of some of their concerns. We recognize those concerns. But I can assure you, Madam Chair, that we're working very hard to work with those stakeholders to resolve those concerns.

We need it for the health of the economy and the health of the injured worker. That's why we need a WSIB.

Mr. Racco: The last question: What would you like to see, Mr. Mahoney, as your legacy as chair of the WSIB?

Mr. Mahoney: I'm not that old, you know. Like my former boss, Prime Minister Chrétien, used to say, I'll leave legacy decisions to other people. But let me just say some of the things I'd like to accomplish.

When I came into this job, I saw myself as an incrementalist, someone who could identify a problem, solve it, move the floor, solve it, move the floor, and keep moving along. I've since discovered some things. If I might beg your indulgence and tell you just a very brief story, it goes back to 1934 in Sault Ste. Marie, when the government had given out a contract to build the locks to join Lake Superior and Lake Huron to allow for shipping to pass. There was a fellow by the name of William Wallace Currie who went underwater that day to blast rocks out. Lightning struck, there was an explosion, and he was killed. He left a widow, Josephine, for 30 years on WCB survivor benefits. He left a daughter, 15-year-old Annie, the youngest of five, on survivor benefits. It turned out, and I did not know this story until I became the chair of the WSIB, William Wallace Currie was my grandfather; Josephine was my Grandma Jo, who was the matriarch of my family; and Annie is my 86-year-old mother, alive and well and living in Mississauga.

1040

So I went and talked to my mom about it, and she told me her story and the impact it had on the family of being 15 years old and not having a dad come home after work at night. It really changed me, frankly, from simply being an incrementalist to realizing that there's a vision that needs to be strived for here. That vision is the Road to Zero, particularly to eliminate fatalities, and to keep working on prevention to get those numbers as close to zero and ultimately to zero if we can.

Can I do that in three years, with two and a half left? Probably not. But I can certainly put in place—and who knows? Maybe this government or some other govern-

ment might see fit to ask me to continue in this role; we'll deal with that when the time comes. But I believe these are goals that all future WSIB chairs and senior management staff should strive to achieve. If that becomes a legacy, so be it, but it's much more important than simply a legacy.

The Chair: Thank you very much. We'll move on. Mr. Martiniuk.

Mr. Gerry Martiniuk (Cambridge): Thank you, Madam Chair. Thank you very much, Mr. Mahoney. I enjoyed your excellent presentation. I'm pleased that you emphasize the fact that our first concern should in fact be injured workers who need our assistance. That's the whole concept of the plan.

You have, obviously, some experience and background as an MPP and in your present position. I understand there have been ongoing consultations by the ministry regarding improvements to the present legislation and policies, I would assume. No doubt they have come to you and asked for a consultation with you and you've made certain recommendations to them about possible legislation.

My question is very simple: What recommendations have you made to the government regarding any changes to the present legislation? What obstacles do you see that are between the board and a better service to our needy injured workers?

Mr. Mahoney: Well, let me just say that I've enjoyed my relationship with the minister. He's been very candid and very open. One of the first things he asked me to look at was how we could make life better for injured workers, and we have certainly done that. I must tell you, though, that as an OIC appointment to what effectively is a provincial crown corporation—we're actually a trust—I think it's important that I hold my counsel between me and the minister, as I would do with any government that was in place that would ask me to do this job. Let's just say that we have had discussions about the impact; that's very important. If we're going to do improvements, it's important that we see those improvements and what they would cost.

I do know that the minister has been quoted as saying, actually—to Ms. Horwath's point earlier—that he in principle supports presumptive legislation in the case of firefighters. I'm pleased to see that, because we all know what heroes our firefighters are and we want to find ways to better serve them.

I have been asked for my views. I can tell you I've been asked for my views on something such as deeming. I've been asked for my views on a couple of other issues. Some of those issues are in that document I asked you all to shred earlier. But in any event, we're giving him the best possible advice we can on the financial impact of any changes that occur.

As far as impediments to it, I'm not a lawmaker any more. We operate under the system that is provided in the act, and we have responsibilities to do so. Whatever changes the government makes, this government or future governments, if I'm still involved, I can assure you

and I have assured the minister that we will endeavour to deliver on that mandate.

Mr. Martiniuk: Okay. I didn't mean to ask what discussions you've actually had with the ministry. I'm asking you, as the overseer of this organization, what you perceive are the weaknesses that have to be overcome to better serve the needy injured workers in Ontario.

Mr. Mahoney: We all know that there have been several bills that have impacted WCB and WSIB over the years, and frankly all three parties in the Legislature have had the opportunity to deliver a bill that made major changes. The government I was part of, when Greg Sorbara was the Minister of Labour, delivered Bill 162 and made some changes. If you go back in time, for example to the issue of indexation, you will find that, previous to the 1990s, indexation was based on 100% of CPI. There were changes that were brought in by the government of the day in 1994 that brought in the Friedland formula, which put in place a formula where indexation was 75% of CPI minus 1% with a cap of 4%. In 1998, the then government of the day changed that to a modified Friedland to make it 50% minus 1% with a cap of 4%.

If there is anything that would, to me, present obstacles, it would be unnecessarily lifting up the roots, if you will, of the tree, and continually re-examining it. There are some changes that can be made by regulation. We've discussed that with the minister. There are some changes that may indeed need your participation in the Legislature, and we've discussed those. So really, it's going to be up to the lawmakers to decide exactly what changes they want to make in this regard. We will certainly support that.

I would encourage legislators to take a look at some of the things we're doing in the area of prevention and health care, some of the pilot projects we're doing, and let us get on with these jobs. Return to work would be another one. We're doing a lot of consultation in that area. These are things that we can do without legislative changes or improvements, and let us get on with the job to make this a very modern company, to best serve injured workers and the people of this province.

Mr. Martiniuk: Thank you. I just have one last question, and my friend has a question. Are you aware of when the legislation amending the act will be tabled?

Mr. Mahoney: I don't even know if there is such a thing. It's up to the government to make that decision. I'm only aware of the fact that my office is on the 17th floor, down on Front Street, and I go there with some regularity and travel the province. From time to time I get asked for opinions on specific issues by the minister. I know that my staff get asked for opinions on specific issues from time to time by staff in the Ministry of Labour. Whether or not there is a clear-cut amendment coming forward or legislation coming forward, with the greatest of respect, I would have no knowledge of that.

Mr. Martiniuk: Thank you, Mr. Mahoney.

Mr. John O'Toole (Durham): Thank you very much, Mr. Mahoney, and congratulations and good luck in your

challenge as chair. For many years in the real world, I worked for General Motors, and I did spend some time in the labour relations area and return-to-work initiatives, which I think are important. Early return to work, I think, is widely supported, and I suspect it's an integral part of what you do. I have really two questions. That's one, and one is a systemic question with respect to barriers that we as legislators could address on this return-to-work policy. We see people in our constituency offices—I'm sure, as you did as well, and probably do even today—and your heart goes out to them because their life is altered. Trying to determine, in some legal sense, the liability issues, puts up another barrier. I would consider myself, as I'm sure most MPPs are, an advocate. Our staff do tend to work with them—and lots of letters from you to the minister.

One of the barriers that I saw in the real world was, when a person is being asked to return to work—and don't take this the wrong way—it's an environment where there's a negotiated contract. There's a seniority provision, of course, which is critical to the whole structure of the contract issue, yet they don't qualify for what I would call a light-duty job, because of seniority. Do you have any comment on that? Do you understand what I'm saying? Seniority is the entire issue of collective agreements; totally. If the union is any—and I see that Pat Dillon is a member on your board; I know Pat quite well. That would be a strong signal of the partnership between the union, the company and you. Do you have any comment on that?

Mr. Mahoney: Jim O'Neil is also a member from the CAW. I just want to add briefly, by the way, that I want to stress that it's early and safe return to work, but too often that word "safe" gets left out because, with respect, what happens in too many cases is a worker is put back to work prematurely, when they're not necessarily back to full health or mobility or rehabilitation or whatever. It can only exacerbate the situation, and then they wind up with another injury. They get accused of being a malingeringer. I think it's really vital that we make sure that we provide the kind of health care services and rehab services that make sure that when a worker does go back to work, whatever the problem was is fixed.

1050

I have relationships with a number of major labour leaders. Some of them are a little angry at me right now because I lumped them into the group that is collectively responsible, along with employers and workers and you folks and us and everybody, to succeed in prevention. But aside from that, I would not presume to interfere in the collective bargaining process. That's a process that is well in place, well entrenched in our society and by and large works extremely well. If there are instances where there's something in a collective bargaining agreement that I think is a deterrent to early and safe return to work, I would be frankly happy to phone up the particular labour leader and have a discussion about that, but it would be inappropriate of me to interfere in their bargaining.

Mr. O'Toole: I appreciate that you are in a position—I just want it on the record, Mr. Mahoney. I think it's important, to be innovative today in the kinds of employment and relationships the employer, employee and their representatives have, that a certain percentage of the workforce could be set aside as work hardening. Most often they don't conform in any way. To get back to work, quite frankly, it may not mean eight hours. It may mean two hours. Just getting up, getting dressed and getting there would be the job, and they should get paid for four hours. You have to be innovative to get them back. If you don't, they're on drugs; they're on pain medications, and they're completely stupefied after about two years. I see them; I work with them. I see them in the constituency office. If they're on pain medication, good luck with getting them back.

The Chair: Thank you very much.

Mr. O'Toole: I have one more question, with the indulgence of the committee.

The Chair: We are in rotation, Mr. O'Toole. It will come back to you.

Mr. O'Toole: But I won't be here, unfortunately. I have to go to an 11 o'clock meeting. I seek unanimous consent for one more question.

Mr. Brad Duguid (Scarborough Centre): Well, if you take five minutes out of their next turn.

The Chair: Okay. We will continue.

Mr. O'Toole: Thank you very much for that.

I'm most concerned, having worked on the reform by Cam Jackson back in 1996, I believe it was. The big issue at the time—I thank the researcher, Carrie Hull, for the very good background document here. On page 6 is the unfunded liability. This, ultimately, is the other major challenge. That paragraph in there indicates that, between 1984 and 1996, the liability went from \$2.7 billion to \$10.5 billion—huge problem. This is crowding out entitlements to future injured employees, as well as employers' liability. The other part is that if you look at the fund management between 1996 and 2001, the fund went almost to half of that, which I think indicates there was some success, without making it political.

My question to you is: You have a goal by 2014 to eliminate that. If you look at all pension issues, not just WSIB liability, there are huge, unsolvable issues. Almost every pension is in huge liability—almost all. Look at the reports from the federal government and you'll see. What is your commitment to reducing or eliminating the liability and what is the consequence if you fail to achieve that—not you, but the board and all the employers?

Mr. Mahoney: Yes, I understand. When I arrived in the job, I was aware of a dispute going on in the business community with the date 2014, and I tried to find out what was magic about that date. The only thing that I could find was that it was the 100th birthday of the founding of the compensation system. There didn't appear to be anything else and there didn't appear to be any financial justification for it.

Having said that, I also found out in briefings from Malen Ng—who may want to respond to this question when I'm finished here—that if we in fact did eliminate the unfunded liability, we would be in a position to actually reduce premiums by as much as one third, or a combination of reduced premiums and increased benefits, which might be the more sensible way to go. So there was a pretty major impact. Fully one third of the premiums that are paid go to the unfunded liability.

I should tell you that we had what I would only describe as quite a spectacular year in terms of the productivity of our investments. This company has about \$16 billion invested in insurance funds and pension funds. We enjoyed a return of 16.2% on our investments this year, which has allowed us to really turn the corner and to, for the first year in many, many years, see a major reduction in the unfunded liability. So we're going in the right direction.

Prior to asking Malen to add to these comments, I do want to say that in my position I don't want to see the tail wagging the dog. If in fact there are some things we need to do to make the system sustainable, to improve the system, to make it work for the benefit of all the stakeholders involved, and it means that we have to move the magic date of 2014 by six months or eight months or 12 months, I don't have a hang-up about that. As long as the goal is there, it's still a good goal. I believe it's achievable. Malen has given us the reports that show it's achievable.

All of that, of course, is bearing in mind that we don't face another SARS or some other kind of catastrophe that could have a serious impact on the economy. So I would like this to be on the record as well, if I might: that we're committed to 2014, but it's not at any cost. We have to go on an annual, year-by-year basis as a board to make sure that we're fiscally prudent, financially responsible and able to deliver the services that we need to injured workers.

Malen, do you have anything you'd like to add to that?

Ms. Malen Ng: No, I thought that covered a lot of it. The other thing I just want to say is that one of the major reasons why we're so focused not only on prevention but also on return to work is because, at the end of the day, an early and safe return to work is actually going to be what is reducing the financial pressures to the system. Prevention efforts actually stop those costs from rising in the first place. So by working on these two levers—and we have actually worked out some sensitivity—they have some truly dramatic impacts in terms of reducing the cost to the system.

At this point in time, as the chair has said, 2014 remains quite achievable. I think very much depends on how much focus, collectively, all health system partners put on actually working on improving return to work and prevention.

Mr. O'Toole: Thank you very much.

Mr. Mahoney: Could I very briefly add something? I think it's important that you understand what we're facing. We have found with the interventions that have

been made on prevention that the lost-time injuries have gone down but our costs are going up. There are two reasons for that: one is the persistency of the people in the claims, that they're on the system too long; the other would be the major health costs that of course we face and everybody faces in that particular system. So we're focusing on reducing the length of time that people are on but also tying that in to early and safe return to work using our health care system to get them better and fixed and back to work as safely and quickly as possible. That will help us in achieving our goal of 2014.

The Chair: Thank you very much. Now I'd like to move on to Ms. Horwath.

Ms. Horwath: I wanted to follow up just a little bit on the benefits issue. I understand the things you've already put on the record in terms of your reticence to share anything that's not appropriate from your perspective in terms of conversations with the minister. But at the end of last year, in November 2006, I had asked the minister specifically about increases to benefits for injured workers. He clearly stated in his response to my question that he was seeking advice from you. So that is on the record, actually, in the Hansard, that he was seeking advice from you specifically about improvements to benefits of injured workers. In your opening remarks, you talked about some of the more minor adjustments around the 10% increase in the transportation allowance etc. But the nub of the issue is the formula and the indexation, which you've already talked a little bit about.

So not only has the minister already indicated that he has thrown that ball into your court, but the Premier has also indicated in remarks previously that he was interested in seeing a more fair system of compensation for injured workers and that the current indexing model was in fact broken and needed to be fixed. I'm wondering if you can share with us, perhaps not the content of any recommendations but a clear understanding, if you've made some recommendations to the minister, about changes to the formula for the indexation.

1100

Mr. Mahoney: Certainly. I'll try to be as forthcoming as I can, respecting the fact that, once again, we don't make the laws, we simply deliver on the mandate that's given to us. But we would like to see improvements to the most vulnerable and disadvantaged workers. We've given that advice to the minister and the ministry. But any changes that occur in indexation, as they did in 1994 by the government of the day and as they did again in 1998 by the government of the day, would have to occur by the government of the day once again. We have identified possible options for changing this system. We have costed them, and we have provided that data to the minister and to the staff.

One of the things that we did do—and by the way, where we can do things without regulation change or legislative change, we have tried to do them. You mentioned some of them, the clothing and the travel and things of that nature. As an aside, we set up a way of helping injured workers, not necessarily on benefits, where we

established clinics in Peterborough, in Sarnia, where we found these occupational disease issues were a serious problem. In the case of the Dryden folks, there are nine people left on the list. We're going to fly them down to Hamilton to get their appointments and have them taken care of. So we continually look for ways to try to do that.

We also adopted the CPP method to calculate the annual indexation factor, which has resulted in higher LOE benefits than what injured workers would have received using the usual CPI indexation. Despite the current use of the modified Friedland, which I would argue has effectively de-indexed pensions, given where we are in terms of the economy, various groups of workers do continue to receive full CPI indexing, such as the survivors and those receiving 100% wage loss.

As you would know, Madam Chair, we operate under at least three different benefit systems: pre 1990, and then the different legislative bills that came along and changed it. It is very complicated.

Ms. Horwath: Which is why we don't do it any more in our offices. We leave it to the legal clinics.

Mr. Mahoney: Exactly. They're very helpful, I know, to many of the injured workers, and I've met with them.

We'll continue to provide support to the minister and the ministry on these kinds of issues. There are some things that can be changed within the purview without—in our view, we've provided the impacts, and we think they're manageable. But it is, I want to stress again, strictly a government initiative, and it's up to the government of the day.

Ms. Horwath: Absolutely. I guess my final question around that is about whether you got any sense from the minister that we might be able to expect some change this year, before the end of this legislative term. Any hints?

Mr. Mahoney: Let me just say that when I met Minister Peters before it was announced that I would be chair, we had some chats. Philosophically, this minister would very much like to find ways to help injured workers in a more proactive way. He very, very much indicated that, and he and I agreed on many, many things.

Ms. Horwath: Okay. Can I ask, then, if you've done any work in your analysis of what the options might be in terms of indexation, did part of the work entail an analysis of where some of the worse-off injured workers are in terms of their economic situation? For example, do you keep stats about whether or not the injured workers currently are living at a level of low-income cut-off or anything like that? Have you done an analysis of workers on benefits and where they sit in terms of economic scale?

Mr. Mahoney: Mine would have been anecdotal, I have to admit: The worker who, when we met with the Bright Lights Group—there were probably 100 of them in the room at the time—read a letter that came from the WSIB, which was somewhat embarrassing, I must admit, proudly telling him that he was getting a 0.1% increase in his pension. That was not a particularly high-water mark in my first eight months. I have sympathy, and frankly a

little bit of empathy, in understanding how he would be upset by that. Whether or not we've categorized it in terms of the question, I'm not sure. John, do you—

Ms. Horwath: Do we have those stats?

Mr. Slinger: We've looked at earnings under the different schemes. We've looked at average lost-time earnings for partial disabilities. We have looked at those numbers.

Ms. Horwath: So looked at them, though, in terms of the worker as an entity and the extent to which their household income is below the poverty line or—

Mr. Slinger: No, strictly the comparisons of what benefits they were receiving relative to benefits being received by earlier generations of workers.

Ms. Horwath: All right. So not in the context of their purchasing power, their ability to pay rent or to sustain their families or to sustain themselves in today's economy.

Mr. Slinger: No.

Ms. Horwath: Do you think that's useful information? Do you think that information would be useful in informing decisions around, for example, indexation? I know Mr. Gravelle's got a private member's bill. I have a private member's bill as well. Do you think that information is at all important or useful in determining where we should go with indexing of benefits?

Mr. Mahoney: The president was just suggesting through the Institute for Work and Health that we could perhaps in our research efforts take a look at some of those numbers to see if they might help us, because they well might. I do know that there are workers literally all over the map. We even have some workers on all three systems because they've had subsequent injuries that have occurred, and trying to keep it all straight is close to a nightmare. But I think you raise a very good point and we can certainly get our folks to do some research on that and try to ensure that injured workers are receiving at least enough to survive.

Ms. Horwath: Do you know if there are many injured workers who are receiving CPP disability benefits?

Mr. Slinger: I'm sorry?

Ms. Horwath: Do you know if there are many injured workers who are receiving disability benefits that have been deemed employable by the WSIB, so they're employable from your perspective but in fact the CPP disability is providing them benefits because, from that system, they're not considered to be employable? Do you see what I'm getting at?

Mr. Slinger: Yes, I do, and I think when our chair talked about the changes in the policies to the CPP offset to provide a formula that benefited injured workers—I think we benefited about 4,000 injured workers at that time. So those would have been 4,000 injured workers who were receiving loss of benefits from the WSIB and CPP disability benefits as well. So the number is about 4,000.

Ms. Horwath: But then there would still be some who are completely not receiving WSIB any more—right?—but who are still considered to be not employable through CPP.

Mr. Slinger: I would not know if there is such a number. I mean, ordinarily, if you were suffering a work-related disability you would be receiving an award of some kind for loss of earnings.

Ms. Horwath: That would be assuming, though, that you were successful in your claim and that everything ended up in a situation where you were actually receiving benefits, but—

Mr. Mahoney: Is your question, if a worker was turned down for WSIB and then subsequently received a disability pension from CPP—

Ms. Horwath: Absolutely. Is there any tracking of those kinds of—

Mr. Slinger: It is possible, but we wouldn't have a way of quantifying that.

Ms. Horwath: I'm going to go back on this kind of line of questioning in another context a little later on. But I guess the issue becomes: To what extent is the WSIB fulfilling its mandate in terms of providing income to injured workers, and to what extent are other systems perhaps filling in when the WSIB system is not fulfilling its mandate? And I'm not saying that that's the case; I'm saying, do we have any understanding of the extent to which other systems are impacted when the WSIB is perhaps not providing the benefit? That comes up, of course, when you look at some of the studies. I know I'm running out of time, so I'll expand on that a little later. But when you look at some of the studies, for example, of where the costing of medical assistance and medical attention is coming from, is the WSIB appropriately absorbing those costs or is some of the burden of the cost of workplace injuries and disease being borne by, for example, the broader health care system?

Mr. Mahoney: That would only occur if in fact they were refused benefits from our end, and I suppose it's entirely possible that someone who went through the system, was turned down, went through the appeal and eventually lost at appeal, if they still had a health problem, they would have full access to the health care system the same as you and I. So I suppose that could occur. But we certainly don't look to or rely on the Canada Health Act to deliver health care to the injured workers who are indeed approved to receive that particular health care. In fact, as I mentioned, we spend very close to half a billion dollars a year. We pay substantial amounts of money, millions of dollars, to hospitals to reserve MRIs. Some have suggested we overpay; I won't get into that debate here.

1110

Ms. Horwath: No, and I'm talking more about the situation, for example, where there is a failure to report injuries, so they're not in the system. That's a whole other issue that I'm going to—it's a little bit more detailed than just tagging it onto the end of this.

What I was trying to get at, though, in terms of the CPP disability, is that it seems to me that if there are people who are coming to the WSIB because of a work-related injury or a disease—mostly injury—they go through the process and their injury or their situation or

their inability to work is not perceived to be work-related. Then they end up going to another agency and the agency says, "Well, yes, you're obviously unable to work," and then there's a discrepancy between whether they're unable to work because of a work-related issue or not, either way; or, for example, they have an injury, they go through a return-to-work process, eventually they return to work, but then they find they can no longer maintain that work. The WSIB says, "We considered you employable. You've had your opportunity to retrain or to be placed in more appropriate work." The worker continues to have difficulties with work, decides WSIB is simply not cutting it, goes to CPP and says, "I can't work. I'm really having a difficult time. I've run my course with WSIB," and then CPP says, "Well, yeah, you're not able to work so you can go on CPP disability benefits."

Do you see what I'm saying? To what extent does that occur? Do you keep any statistics on that or do you have any understanding of whether that's an issue or not?

Mr. Mahoney: The first part of the question, failure to report, is against the law. We see that in that light very clearly, black and white. I know there are folks in the labour movement, some in the room, who would say that that happens too often. All I can say is that wherever we find it, we deal with it, and we deal with it very firmly with very substantial fines if there is in fact a failure to report. We're also doing everything we can to communicate to the employer groups that they have this legal obligation to do so. Are we doing enough in that area? Perhaps not.

As you would know, the ministry hired 200 new inspectors who, of course, the WSIB pays for—happily, sort of. They are out there in the workplace doing their job and hopefully helping us to find people who violate it. When I speak to some employer groups, I get the question about fraud in the system, and when I speak to labour groups, I get the same question. I think there is some fraud on both sides and we don't tolerate it if we find it, if we see it. It's certainly not the focus of my mandate, but it's something that's very important.

If they're using other systems like CPP, I'm not sure, John, if we would even be aware that they were doing that, that they were going to CPP on their own.

Mr. Slinger: CPP or private insurance—we wouldn't know. Again, there are a variety of disability plans that have different definitions of disability as well. We also know that the portion that we specifically cover is work-related disability. Certainly there are people who receive CPP disability benefits who may have not just a work-related but also a non-work-related disability. There is a whole variety of scenarios that could play out and some of those would certainly never come to our attention.

The Chair: Thank you very much. We're ready to move on. Mr. Racco.

Mr. Racco: When I was appointed PA to Minister Peters, one of his assignments was that I make a PA tour to speak to people about, unfortunately, the accidents that have taken place in Ontario and also the number of

people who die on the job every year. My question to you is—and I know that you've got some programs in place—what are those programs that you have in place to recognize employers who have good health records so that we make sure we stimulate everyone to the maximum so that we can get those numbers down and eliminate them as soon as possible?

Mr. Mahoney: This is a controversial area in terms of some stakeholders who feel that providing incentives to employers is the wrong way to go. It's been suggested to me that the right way to go is enforcement and penalties. Where we find violations, we certainly do invoke penalties, and there are many examples. In fact, I saw a couple on my desk this morning before I came here. But we do have incentive programs. You may be familiar with NEER. You're all going to ask me what these acronyms mean and I'm going to have to look at the staff, but NEER is an experience rating that basically is the broader employer section. CAD7 is the construction industry, and then there's MAP, which I'm—

Ms. Hutcheon: Small business.

Mr. Mahoney: Small business is MAP; there you go.

The basic principle of them is that if your numbers go down, your rebates will go up. One of the most successful—and I notice John Milloy is here. He was at a meeting I spoke at the other day. The manufacturer group was there and they talked about the success of the safety programs. We've established safety groups around the province where companies get together collectively and share best practices. I referred earlier to Thunder Bay and Bombardier to Mr. Gravelle. They actually go out to small businesses in the community of Thunder Bay and invite them into their place to share some of their best practices. They do this voluntarily, not looking for any kind of a rebate. I would like that to go on the record because I think they need to be recognized for that kind of proactive view of things.

One of the reasons, though, and one of the successes that we've seen is that it's starting to come from the top down. We're starting to reach the CEOs and CFOs. In the past, in my view and in my experience both as a member of this Legislature and as a business person, I have experienced that, generally speaking, the people on the shop floor get it; the people in the unions get it. They understand the importance.

Too often, what happens is they'll have to go upstairs to the CFO or the CEO to get funding for a particular program of health and safety. The best example of that would be WHMIS. If any of you have ever taken a WHMIS training program in a classroom, it's very much like sticking pins in your eyes. There have been other programs that have been made available, interactive software programs and the like, that cost money. The message that comes too often from the CFO to the health and safety person who's coming up and looking for the money is, "Are we meeting the minimum obligations that we're required to meet under the act?"—that is, classroom education—"Yes, we are." "Fine. Go back to work," and a little pat on the head.

We're starting to see some changes. We have a CEO charter. Duncan Hawthorne at Bruce Power is just a fabulous person for health and safety. His firm, a private sector power firm, is among the safest in all of North America in a very dangerous industry. He deserves full recognition and credit for the work that he has done. He has helped us establish a CEO charter. I think over 225 companies' CEOs have signed on to this charter, and there is a list of commitments within the charter that they will do in their workplace to make it safer.

In 2007, we are launching from my office what we're calling a community charter, where we're going to be going to municipal governments, to mayors and councillors, and talking to them about how they can get more actively involved in promoting health and safety, not only within their corporation but within their community. There are many examples of huge amounts of money that municipalities, both in terms of the municipal corporation and in terms of the broader community, are losing every year in their economy because they're not paying enough attention to the issues of health and safety. I'm recommending that every municipal council assign one of their councillors to actually sit on the health and safety committee and ensure that they report back through either their general committee or their council on a monthly basis, providing statistics, success stories, new products and services, showing the mayor and council, and thereby showing the broader community, what they've done. We're asking them to go out to the boards of trade and the chambers of commerce, along with me and with our staff, to talk to them about how we can improve health and safety and better educate the community.

It is my contention that we all have a responsibility in society to recognize the serious problem of fatalities and of injuries, both from an economic point of view and, quite frankly and more importantly, from a social policy point of view, and the impact that it has on working people and their families in this province.

1120

The Chair: Mr. Gravelle.

Mr. Michael Gravelle (Thunder Bay–Superior North): Welcome, Mr. Mahoney, Ms. Hutcheon and members of the senior management team. This is a great opportunity for us to ask a number of questions and have a discussion. I suspect I'll run out of time here because there are a lot of areas I'd like to get into. Certainly, as you would know, every MPP is pretty actively involved in a number of cases where injured workers in their ridings—

Mr. Mahoney: None more than you, Mr. Gravelle.

Mr. Gravelle: Well, I'm not particularly surprised to hear that.

Mr. John Milloy (Kitchener Centre): He says the same thing to me.

Mr. Gravelle: Yes, exactly. I'm grateful for the response that we get. It's challenging sometimes. These are very difficult and complicated cases, and it's increasingly difficult for us in our constituency offices to actually get involved in the in-depth way we perhaps used to be able

to. We do use the legal aid clinics; they're wonderful and extraordinarily helpful. But there are a number of areas.

As Ms. Horwath pointed out, I do have a private member's bill related to a cost-of-living adjustment. On a couple of occasions, I found your comments earlier helpful. We know how the system changed in 1994. It began under the NDP government, and then under the Conservative government there were some more adjustments. Now we're in the modified Friedland formula.

I understand you can't be specific about any recommendations you may have made to the minister or advice you've given, but can you tell us in some fashion at least what would be the impact if we had full indexation based on the CPI? What would be the impact in terms of the unfunded liability or just the impact on a financial basis?

Mr. Mahoney: Two point three billion dollars.

Mr. Gravelle: Two point three billion dollars.

Mr. Mahoney: That would be added simply to the unfunded liability, and the numbers were mentioned earlier. Not to put too much emphasis on retro thinking here, I seem to recall that in my time in the Legislature the unfunded liability was approximating \$13 billion. It's now \$6.7 billion, and at the end of this year, Malen, we're going to be at—

Ms. Ng: We're expecting 2006 to come in at around \$6 billion.

Mr. Mahoney: —around \$6 billion. So we're going to be \$700 million off of that this year as we head toward our target of 2014. But full CPI, based on the CPI today, which I think is about 2.7%, we said would be about \$2.3 billion or \$2.4 billion.

Mr. Gravelle: I ask that question because I think it's an important question to ask and it's one that most people would know about. It in no way impacts on my feeling about the issue because, as you pointed out too, essentially the way the system is now set up—the modified Friedland formula—there's virtually no benefit.

I also get copies of the letters that the workers get at the end of every year saying 0.01% increase in benefits, which is extremely upsetting to them. But we will do your lobbying in that regard, and I appreciate that that's what you would expect us to do.

I work very closely with the Thunder Bay and District Injured Workers Support Group. Back in the mid-1990s, after I was first elected, despite some of the anger we felt at the way things were moving or changing in the system, we decided to be very positive, and I brought forward a private member's bill at that time to bring health and safety programs to Ontario students. It was very much part of the work that came from working with the district injured workers' group. We brought the legislation forward and, as a result—and it may not be fair to ask you, Mr. Mahoney, but hopefully there will be someone who can respond to this—there was a significant committee that was set up to actually work with the injured workers' groups across the province and others as well. I think it is fair to say that there has been a significant reduction in workplace accidents and fatalities in terms of young workers, and I think everybody who's involved in it should take some credit for it.

But can you give us some sense of how things have changed in terms of how the WSIB approaches that? We thought it should be in every classroom and people should have certain training, although it would vary according to the part of the province. The committee that was set up, I think, was relatively successful in having an impact, and I just wanted to ask you a question on that.

Mr. Mahoney: I appreciate that question, and I think it should be core curriculum. In some places in the province it is, and in others it isn't. So there are some inconsistencies there.

Let me tell you, though, that we are launching once again a young worker awareness advertising campaign. I must admit, looking around the room, with one or two exceptions, that most of you may not see it, as I wouldn't, because it's going to be on media, Internet and things that the kids go to. You can go there, but chances are we're not going to go there as it's not necessarily part of the Globe and Mail, although we are looking at running some ads in the Globe to try to tell parents about what we're doing on YouTube or wherever else the kids spend their time these days. It's a wonderful, wonderful campaign, and I'm very excited about the fact that I think we're going to reach these kids. The beauty of the campaign, to paraphrase the advertising executives who presented it to us, is that this is not about the man telling the kids they need to be safe; this is the kids telling the kids they need to be safe and carrying that message. So I think we're going to see even better results.

I want to tell you about one really exciting thing that we're doing, though. This came from our staff. I talked about our staff. One of our Sudbury staff came up with the idea of developing a children's book. If any of you have grandchildren, you would know of the success of some of the books that these kids devour—the Baby Einstein situation that my grandchildren look at all the time. Initially, the idea was that we were going to develop a book. When I was out making a speech, much to the chagrin of the staff, I announced that we were going to develop a series of books. So they of course all swallowed hard and ran back to the office.

This is going to be great stuff, because if you want to really get the message out, start young, start in elementary school. Get these kids when they're six, seven, eight years old, because think of some of the things we've succeeded at. What does a seven-year-old do when they go to ride a bike today, first thing? They put a helmet on. If you or I put a helmet on and went to the schoolyard when we were kids, we would have been laughed out of the place. Now, not only do they put a helmet on, but they turn around to Mom and Dad and say, "Come on, Mom, come on, Dad, put your helmet on." So we have succeeded. We haven't totally eliminated problems in drinking and driving, but we've had an impact, with Mothers Against Drunk Driving and with the help of municipal and provincial governments and even the federal government, in driving home the responsibility that we all have.

I want to see us do the same thing with health and safety. Make this part of the bigger picture, where every-

body in society realizes that nobody should get that knock at the door that says that your son, your daughter, your wife, your husband has just been killed in a workplace incident.

Mr. Gravelle: That's a very encouraging response, I must admit, particularly your reference to it being core curriculum. It certainly is a lot more in the school system now. That was one of the goals of the committee that was formed, and I think it's been quite successful. That was the goal of the private member's legislation we were working on with the injured workers' group in Thunder Bay, to recognize this. There's been a lot of progress.

I don't know how much time I have left, but I want to ask a few things about the north. There are two members here from the north, certainly the northwest of the province. There are different accident rates in the north because of different occupational realities. Is that the case? Do you have statistics to bear that out or can you help me with that at all?

Mr. Mahoney: I think we have stats in the mining and the lumber industry, certainly construction overall, and motor vehicle, by the way, all over the province. We've launched a co-operative program with the province, with the feds, with WSIB. We even had Cam Woolley out, God bless him. We did a big media launch for the impact of this thing to try to, again, make people aware of what's going on and where these incidents are occurring.

Do you have northern Ontario stats?

Mr. Slinger: I don't, specifically. We certainly keep records by all industry types and all rate groups, but I don't have a geographical breakdown. We could certainly see if we could get that breakdown for you.

Mr. Gravelle: I'd like to see that, if you could. I'd be curious to see it.

Mr. Mahoney, I really appreciated your comments about Bombardier earlier—you made reference to it twice—because it's a great story of an employer working with their workers and the workforce there as well. I guess the question then leads to, are we seeing improvements in all the major sectors, perhaps not comparable to Bombardier? I do think attitudes are changing.

The reason I asked about the north was probably specifically about forestry and in terms of mining as well, and whether there would be a reduction in rates as a result of that different approach being taken by the companies.

1130

Mr. Mahoney: There are some very, very good proactive people in both forestry and in mining. In the mining area, there is a mine rescue team out of Sudbury, whom we met with. In fact, I thought they were going to leave me. They took me 2,200 feet below the surface in Timmins in a gold mine for five hours, and I thought that was an incredible experience. Some of the things they've done—in a very dangerous business, obviously, because mining, for all our modern technology, is still a guy with a drill and a pick at a couple of thousand feet below the surface. It's still a high-risk industry. But they are improving.

Our LTIs, our lost-time injuries, have gone down right across the province, as I've said before; our problem is, the length of time that they're on and the severity of those injuries have not. So we've got a bit of a problem in that area. We're striving on health care and we're striving on early and safe—an emphasis on safe—return to work, so that we can get the persistency figures down.

The health and safety associations that we work with—there are 14 of them—all have regional data. We can provide you with that information for your community. I have to tell you, with the greatest of respect for the many wonderful parts of the province, that there is probably not a more active area than Thunder Bay when it comes to organizations trying to deal with health and safety, trying to deal with injured workers. It's an area where there's some good work being done. We can say that in many parts of the province, but I do single that particular area out for some of the people we've worked with.

Mr. Gravelle: I would appreciate the—

Mr. Mahoney: I should add that we've just had a meeting with Steve Mantis. We're launching a very interesting program with Steve, working co-operatively with him, on what happens to injured workers as they go on, after the injury, the impact on their family, doing some research work with him. What's interesting about Steve Mantis is that he was around when I was around, so we both go back a long way. We're hopeful that we're going to get some good data from working closely with him.

Mr. Gravelle: I worked very closely with Steve as well. It was Ross Singleton who, I may say—I'd like to put on the record—was very involved in the health and safety initiatives towards young people and people just entering the workforce. It has been a very active group for some time.

I would appreciate the information. If you could gather that for me, that would be great.

Mr. Mahoney: Sure.

Mr. Gravelle: Thank you very much.

The Chair: We'll move on. Mr. Martiniuk.

Mr. Martiniuk: I'll share my time with my colleague Ms. Scott.

I want your help, because you were an MPP and I get confused with your organization at times.

Mr. Mahoney: You should work in it.

Mr. Martiniuk: It's pretty good on the employee side. In our region we have the employee advisory group, who, I have found, are overworked and unfortunately understaffed but do an excellent job. I have received very few complaints over the past 10 years about their workmanship. The only complaint is the slowness. Quite frankly, I've discussed that with members of that organization, and they are understaffed. We have a very fast-growing region, as you know, and a very low unemployment rate. Because of our growth, they're always a little bit behind, which is understandable, but unfortunately it does not help many of the injured workers in need.

However, on the employer side—and the reason it came to my attention, and I don't know whether as great

an emphasis is placed—we have a letter that has been filed with the committee from Umbra Ltd., which, unfortunately, like a lot of businesses in Ontario, has closed up 93% of their business in Ontario and moved their manufacturing jobs to another location outside of Ontario. They feel they've been aggrieved and are getting the runaround. Fortunately, you have become personally involved, according to the letter. I don't know whether you should be; I'm not in any way criticizing you. However, we do have, as I understand—because the last time I wrote to the board, to yourself, I also copied an employer advisory group within your organization, which has contacted me. I'd like you to outline for me the workings, from an MPP standpoint, of the employer advisory group. I understand how you became seized of the matter, because it came up at a public meeting, and I congratulate you for taking the time and your interest. However, why were they not directed originally to the employer advisory group and why aren't MPPs even aware of that organization within workplace compensation? I've been involved for 10 years and I really was not aware that there was an organization that would help employers in addition to employees.

Mr. Mahoney: On the Umbra file, let me tell you that John Slinger, our chief operating officer, and my executive assistant, Mark Tyler, met with the Umbra folks last week at my request to go through it.

When I say I got involved—I think to say that I seized control of the issue is probably an overstatement, but having served in political office for 26 years at every level, I'm not beyond understanding what bureaucracy is like and how it can frustrate people. It sometimes may be a different view from a different level or to just review the thing. I've done that in a number of instances; I've done it with injured workers. I have to recognize and realize that my job is somewhat at 30,000 feet, as the chair of the organization, and that my responsibilities are not to get into adjudication matters and things of that nature. Perhaps my president would not happily admit this, but I have been known to stir the pot if I see something that I think is unfair or unjust. Perhaps that comes from my experience as an MPP.

Why they were not referred or chose not to go to the OEA, I really have no idea. We work very closely with the Office of the Worker Adviser and the Office of the Employer Adviser. There are more groups involved, from a stakeholders' perspective, in trying to help more people than you could ever imagine. People say to me all the time, "Do you miss politics?" I say, "You've got to be kidding. I'm the chair of the WSIB. It's probably the most political job I've ever had."

But having said that, if I can help out by cutting through the tape or getting someone to take a quiet look at this thing—I have even gone to the extent, much to the surprise of one employer, who I won't name, where letters came in complaining and I got in the car and went and knocked on his door, walked into his boardroom and said, "I've got to talk to you because I don't understand what the problem is." We wound up resolving his par-

ticular issue, not totally in his favour, by the way, because he wasn't absolutely accurate in what his concerns were, but he did come to understand that we had a position and that it was a legitimate position.

Perhaps, though, I'll ask John, as much as he can, given privacy rights and things of that nature, just to give us an update on the meeting he had with Umbra and with Mark Tyler.

Mr. Slinger: Certainly in a system as large as ours—you can imagine receiving 354,000 claims a year and administering 225,000 employer accounts—we make a tremendous number of decisions. In the course of a year, we estimate we make over a million decisions. Having said that, certainly we have procedures in place that enable parties who are unhappy with decisions to go through an appeal process and to have their cases heard. Of course, we have legislation and we have policy to guide us and we gather information and make decisions.

I think there are circumstances that we have all seen where applying the strict letter of a policy doesn't always result in an appropriate decision. I think we are always challenged in an organization of our size to ensure that our staff exercise appropriate discretion in appropriate cases. I could simply say that this is a case where the black letter law and the area of discretion were challenged. I think we had an excellent meeting and we're certainly looking at ways of resolving that case. Again, as Steve has indicted, there will always be exceptional cases that we need to look at in exceptional ways.

1140

Mr. Mahoney: I might just add, though, if you look at the body of the letter, the claim would be that due to the WSIB, they moved 180 out of their 189 staff to China. I have some difficulty with suggesting or accepting the premise that the WSIB would be solely responsible for such a major decision. In fact I go back many years ago, and I often tell this story, where I saw a sign outside of Joe's garage, Anywhere, Ontario, that said, "Our price includes the PST, the GST, the EHT, the MPT, the UIC, the WSIB and the CPP," and at the bottom it said, "We would have included profit, but we ran out of room." So there are a lot of regulatory requirements for business in our society today. We are simply one of them.

I would also add that we provide litigation protection, which I think is huge for Umbra or anybody else doing business in Ontario. I think we do deliver added value. However, we have accepted the invitation. We are going to go to the place of business. We're going to revisit the issue with them and try to be as fair as we can.

Mr. Martiniuk: Excuse me, just to make sure for the purpose of the record, because I did not read the letter in, it states that they moved "98% of our assembly to China when the exchange rate became a failure." So I don't know whether they're blaming the WSIB. They were talking about an exchange rate.

Mr. Mahoney: Well, they are to us, but that's okay.

The Chair: Thank you very much, and we'll move on to the—

Mr. Martiniuk: We have time yet.

The Chair: No. I'm very careful. We have gone beyond 10 minutes, I think all the way around now, and we have a few minutes left. I would move on to the NDP.

Ms. Horwath: I wanted to ask a little bit about your comments earlier about prevention and about getting to zero accidents, zero workplace injuries. I wanted to specifically ask you about your authority, or the WSIB's authority, under the act to certify members of health and safety committees in the workplace and to make sure that their training requirements are set and fulfilled. I guess every workplace with more than 20 people is supposed to have at least one certified employee on their health and safety committee. I'm wondering about the extent to which you've got records on how many workplaces in Ontario are not fulfilling the requirement to have a trained, certified health and safety worker rep on committee. Do you have that statistic?

Mr. Mahoney: If we find that someone is not obeying the law, if that's the question, certainly—

Ms. Horwath: No. I'm asking if you're keeping stats on the number of workplaces that do not have a certified health and safety rep on the joint committee.

Mr. Mahoney: What we're just huddling about here with this question is that it's one of the grey areas of who's responsible, between the Ministry of Labour and us. We are currently looking at the issue and having discussions with the staff. The fact is that the ministry is the enforcement arm. Notwithstanding the fact, as I said earlier, that we pay for the inspectors and all of the systems that are in place, they are the ones who actually go out and enforce and would lay a charge, if that's required—something along those lines. So they would likely have those stats, but we certainly don't have them within our shop.

Ms. Horwath: Would it make sense, though, if the goal of the board and your stated goal as the chair is to bring those numbers down, that the best way to do that is to have certified, trained worker reps on the joint health and safety committee so that they're identifying where the problems are and identifying where the solutions need to be made so that those injuries are not occurring?

Mr. Mahoney: It's a very good point, and we are looking at the issue. But I think you raise the point that really fits well with my comments earlier about our outreach in the municipal sector to try to ensure that they have active health and safety committees that are reporting on a regular basis. There should be certified members on them at the municipal level. I'm suggesting there should be a politician on it as well to try to highlight or increase the awareness of the thing. But we'll take that under advisement.

Ms. Horwath: So then the requirement for monthly inspections of the workplace by the committee, for example—you wouldn't keep statistics on whether that happens; you're saying the ministry staff do that?

Mr. Mahoney: In the municipal sector—

Ms. Horwath: I mean in all sectors, in the workplace—

Mr. Mahoney: Okay, in all sectors.

Ms. Horwath: You mean you're responsible, the board's responsible, for all workers who are currently covered, and I'm not going to ask about the Brock Smith report. That's another issue.

Mr. Mahoney: You can if you want to.

Ms. Horwath: I know the answer, so there's no point in wasting my time on it.

The question is, though, that in all workplaces in Ontario, if we're really serious about getting injuries down, if we're serious about making workplaces safe, there are a couple of things that can be put in place. One is making sure that the instruments that exist under current legislation are actually utilized and that there's an accountability mechanism to make sure that they're being utilized: first, whether that's certification of the worker at the workplace who's a member of the joint health and safety committee, at least one certified worker; second, then, making sure that they're doing their job as required under the act to make their monthly inspections of the workplace, report findings and actually get to the solution stage so that we can get those numbers down. To what extent is the WSIB participating in realizing some of those goals?

When I look at your stated objective—maybe it's not going to be your legacy, but hopefully it will be somebody's legacy over time—the only way we're going to get there is if we're really serious about these kinds of activities. To what extent do you participate in that right now, and do you see the WSIB as having a role in the future in terms of making those things happen?

Mr. Mahoney: My understanding is that it's primarily a Ministry of Labour function at the moment, but I do believe we should be participating in it more. I'm told by Jill Hutcheon that the staff are having staff-to-staff discussions about this type of thing, about how we can make it a tool. We have a new chief of prevention who has joined us, Tom Beegan, who comes to us from Ireland, where he was the head of their national health and safety program. Hopefully, with Tom we can look at that being one more tool. I think it's a good idea, and we'll be prepared to take your suggestion to heart.

Ms. Horwath: So at this point, then, you, the board, wouldn't have any understanding of how many workplaces actually fulfill that requirement of having a trained, certified worker on the joint health and safety committee?

Mr. Mahoney: I don't believe that as an organization we would have that kind of data within our mandate currently. There is a little bit of push and pull that occurs between a Ministry of Labour and what is effectively a provincial crown corporation. We have certain responsibilities which we've talked about around prevention, around return to work, all of those kinds of things. Enforcement and inspection, that type of area, is done primarily by the Ministry of Labour. So there could be some overlap, and we'd be quite prepared to look at that, because it actually may be information that would be more helpful to us than them.

Ms. Horwath: Again, I might be misinformed, but it's my understanding that the Workplace Safety and

Insurance Act actually is the piece of legislation that enables the certification of the worker. Is that not true? Or is it the Occupational Health and Safety Act?

Mr. Mahoney: That was the Occupational Health and Safety Act.

Ms. Horwath: Is it the Occupational Health and Safety Act, as—

Ms. Hutcheon: But we will go back and get you that information.

The Chair: Thank you very much—

Ms. Horwath: Madam Chair, I'm sorry, but I had less than five minutes. The previous question—

Mr. Martiniuk: It's a new rotation.

Ms. Horwath: Well, I'm sorry, but I barely had even five minutes on that rotation. You had a good 10 minutes on your rotation.

The Chair: Excuse me, I have kept track. I'm quite prepared to let you know. I was just finishing up. We were at almost equal time because of the fact that there was an unequal distribution earlier in the morning. If you wish one more question, I'm prepared to entertain that.

Ms. Horwath: I just have one very brief one.

Mr. Martiniuk: Excuse me, Madam Chair—

The Chair: Excuse me, we do have time.

Mr. Martiniuk: On a point of order, Madam Chair: We did a rotation for 10 minutes, and it's gone around twice. We were the last on the 10-minute rotation. We're now at a five-minute rotation. We're supposed to finish at 12. There is just time for two five-minutes left, the Liberals and ourselves.

Ms. Horwath: Excuse me, but I didn't even have a five-minute rotation that time.

Mr. Martiniuk: But you just had it.

Ms. Horwath: I did not. I have my watch and I was watching my watch.

The Chair: Excuse me. I have offered you one more question time. We will continue.

Mr. Martiniuk: Are we going over the 12 o'clock noon then?

The Chair: No, we're not. I don't want to waste time.

Mr. Martiniuk: Madam Chair, I'd like a ruling. Are you going over the 12 o'clock?

The Chair: I'm going to allow an opportunity for the rotation to finish. If you take time now, that means it will go overtime. Continue.

Ms. Horwath: Just very briefly, then, on the same issue of training: This is training particularly in terms of your front-line staff. In the beginning of your remarks you indicated that your front-line staff were receiving sensitivity training around injured-worker issues. Do your front-line staff also receive occupational health and safety training so that they have a good understanding of both pieces of legislation and how they work together?

1150

Mr. Mahoney: Well, I know the adjudicators certainly do in terms of about a six-month in-depth training program, but perhaps you could answer, John, regarding the rest.

Mr. Slinger: There is some occupational health and safety training provided, but I know there have been suggestions given to us in some of our working groups that our adjudicators should in fact be certified. We don't train to that extent.

Mr. Mahoney: Perhaps one of the reasons for the debate over time is that I'm too long in my answers, but, Madam Chair, if I might just read a section that comes under "Functions of the board" in relationship to the question, which I don't think was appropriately answered by me, one of our requirements is "to develop standards for the certification of persons who are required to be certified for the purposes of the Occupational Health and Safety Act and to approve training programs for certification." So it's trying to work together, but it's the Occupational Health and Safety Act that we develop the standards for.

Ms. Horwath: Thank you.

The Chair: Mr. Milloy?

Mr. Milloy: Thank you very much, Madam Chair. In the interests of time, I'm going to go right to the heart of the question, and I thank Mr. Mahoney for being here. But I hear from both injured workers and employers, so I'm going to try to lump it all together into two separate categories and start with injured workers.

It's amazing that their number one complaint isn't about all the different issues that you would think about. It has to do with the way they feel they're being treated by people at the WSIB and the fact that there almost seems to be a supposition that they're guilty of something as opposed to trying to work with it.

Then, moving on, one of the more specific complaints involves the whole LMR program and the fact that they're sent off for training, and I've heard some pretty hair-raising stories of being sent to sort of fly-by-night providers, of a poisonous atmosphere, questions about individuals who do have serious injuries who are not even given a proper chair or a proper place in order to complete the training program and take that into account, the fact that they are threatened that if they're late or if they miss a session due to illness, they might be thrown out. And at the end of the program, they're finding out that these operators, as I say, are nothing better than fly-by-night operators and that the certificates they're getting are not meeting the requirements.

So I guess just a comment both on the general and then on the specific with the workers.

Mr. Mahoney: It would not be surprising to know that the calls that you get would be of a complaint nature, as opposed to phoning you to say that everything is okay. But having said that, 83% of our decisions are made in four weeks, and 97% are made in eight weeks.

The sensitivity training: When I hear from people, and I get complaints as well in my office now, it's usually from people who feel they have been mistreated or they haven't been respected or whatever the case may be. We do look at those complaints very carefully. We also have a third party that they can go to, an ombudsperson, if you will, that they can file an appeal to before getting—I

mean, they can go through our internal appeals system. They can then go to WSIAT to appeal. But they can also go to Laura Bradbury, who will take a look independently, and she reports directly to me, right to my office. She has identified some problems, I might add, in some of the areas of occupational disease that I think are very legitimate points that we want to hear about.

So we try to respond. We try to work with the Office of the Worker Adviser. I quite agree with Mr. Martiniuk's comments about them being understaffed and underfunded. In any event, we try to work with them. But it's not unlike most systems, that old 80-20 rule: 80% of the decisions are generally made fairly quickly, people are back to work and the problem is solved. We refuse about 5%. The remainder are the ones that are the difficult cases to deal with. Sometimes they're very legitimate in their complaints about how they've been treated, and we take that very seriously.

Mr. Milloy: And in terms of the LMR?

Mr. Mahoney: I'm glad you asked that, because I had actually made a point. Many of you will recall that we used to do a lot of the rehab internally and things of that nature when we had Downsview, and then that was sold off and things changed and a lot of stuff came inside the operation. We actually have a system where we have seven main providers of LMR who then go out and hire the actual service delivery companies. We're currently looking at putting out an RFP to allow those actual on-the-ground companies that do the training to bid directly. The reason for doing it with the seven umbrella groups was primarily to reduce administrative costs and to try to smooth out the decision. We are concerned that too often a worker may be trained or attempt to be trained for a job or a position that doesn't exist and won't exist—and that goes to the heart of the deeming issue, something I hold near and dear—or that, due to language or educational levels etc., it's just not a practical course for them to take. When we do see these things, we try to respond to them, to see if there's a better way of getting them back into the labour market than simply, for example, trying to train a 55-year-old bricklayer to use a computer. It doesn't make a whole lot of sense in many instances, and we need to be more sensitive to that.

The Chair: Thank you very much. We've run out of time and I'd like to go to the opposition, then. Ms. Scott.

Ms. Laurie Scott (Haliburton–Victoria–Brock): Thank you very much for being here today and for the information that's been provided.

Just quickly, I agree with a lot of what Mr. Milloy said, from calls into my office in Haliburton–Victoria–Brock, a very rural riding. We certainly have some challenges. One is travelling to doctors, backlogs of travel cheques getting to them. We're hearing eight to 12 weeks, and we're talking people in some serious financial situations, so that means a lot to them. But it's also going back to work. The example that I hear often is weight: "I could lift 50 pounds before, but I can only lift 20." We don't have as many job opportunities for them to go to, so there are difficulties within it.

But I guess the question is the backlogs. I spoke about travel backlogs and the challenge we have in the riding, but for them to see specialists is difficult. I know Ms. Horwath asked a question about backlogs and where people are in the process right now. Is there a statistic that you could maybe share?

I don't have much time, so I'll leave that with you, on several topics.

Mr. Mahoney: That's okay. I think John has—

Mr. Slinger: I don't have a statistic, but certainly one of the reasons we created the position of nurse case manager a few years ago was specifically so that we would have someone from the health care community with expertise and experience who could help identify opportunities to expedite health care in some fashion, and sometimes that might mean going to a different jurisdiction. In fact, that is an issue for us, especially in the north. Where those waits are going to be too long, we will try to find some available specialist a little further. In order to expedite that service, we will try to be as flexible as possible and look to assist injured workers in doing that. By and large, while we are all stuck with certain waits, we do look for ways of expediting those cases.

Ms. Scott: So there's no three-, six-, nine-month wait list that you have?

Mr. Slinger: It would really depend on the area and the nature of the specialty. Of course, we have, I believe, 16 specialty clinics ourselves, so we actually have areas of expertise and specialties that are for the most part placed in teaching hospitals, and we always have the option—in fact, our first option in those cases, for those specialties covered, is to bring them to our specialty clinic. Those turnaround times, of course, are very fast. But for other things not covered by our specialty programs, that would really depend on the individual community and the individual specialty.

Mr. Mahoney: I might add that the nurse case practitioner program has been very successful from Windsor to Thunder Bay and all over the province. I've heard nothing but really positive comments about that, and hopefully that's one area where we can get at these people quicker.

The Chair: Thank you very much. Our time has expired. We certainly appreciate that you were able to come today and look forward to seeing you again on Thursday morning at 11 a.m.

Mr. Mahoney: Thank you very much.

The Chair: This committee stands recessed until 1 p.m.

The committee recessed from 1201 to 1303.

The Chair: I'd like to welcome everyone back to this afternoon's session of the standing committee on government agencies, particularly the review of the Workplace Safety and Insurance Board.

Ms. Horwath: On point of order: I'm just noticing the people who are presenting this afternoon, and I'm wondering if it's in fact not a bit of a conflict of interest to have an organization that's almost completely funded by the WSIB as one of the stakeholders to committee. I'm

obviously subbing in; I've not been part of this process before. The fourth presenter down is almost fully funded by the WSIB. In fact, members of the board of that organization are staffers at the WSIB. It seems to me a bit of a conflict.

The Chair: Just a second.

Ms. Horwath: Can I ask who it was who called that agency in particular as a stakeholder?

The Chair: Yes, I just am reminded of the actual invitation that went out from the committee and it says, in the second paragraph, "as a stakeholder affected directly or peripherally by the WSIB, the standing committee would like to provide you with the opportunity...." So I think we've established that kind of precedent in providing that kind of invitation.

Ms. Horwath: Because it's two-thirds funded by the WSIB, I guess it would be very directly affected by the WSIB. Can I ask you who it was who called this particular agency?

Mr. Martiniuk: It wasn't us.

The Chair: It was the government.

Ms. Horwath: Thank you.

ONTARIO FEDERATION OF LABOUR

The Chair: Now if we can just return to the agenda, I would like to ask Mr. Wayne Samuelson, the president of the Ontario Federation of Labour, to come forward. As you may know, we have 30 minutes, and you are free to use that 30 minutes in the manner you wish. However, if you leave time for the individual caucus questions, the time will be divided equally amongst them.

Mr. Wayne Samuelson: Thank you very much. Let me begin by thanking you for the opportunity to say a few words. But let me first of all disappoint you. I'm not going to bring any slides or graphs. I'm going to try to avoid talking about percentages and numbers. Instead, I'm going to try to talk about my experiences as a labour leader in the province of Ontario and, frankly, as a worker in a manufacturing facility for about 20 years of my life.

I must say, I did listen intently to the presentation by the board this morning and I am, just as all of you are, really pleased that the chair gets to travel around, give lots of speeches and talk to people. I guess I should add that I'm not surprised that when you put a politician in that job, he sees the job as political. I really hope that the board and the chair can find more time to deal with the real problems that affect workers.

As I said, I worked for 20 years in a manufacturing plant. I've been injured on the job, like many workers. I was once a few feet away from somebody who was killed at work. Every single day, workers who worked in the facility I worked at are dying because of exposure to chemicals in the workplace. I came from the rubber industry in Kitchener. We have literally hundreds of claims backed up at the Workers' Compensation Board.

So, for me, a lot of these issues are incredibly personal, and I can tell you, as someone who deals on an

almost daily basis with injured workers and people who are trying to change a terribly distressed system, it's important to stay away from all the talk about numbers and percentages and try to make it real.

In the crowd today, for example, are Barb and Jean, who are from Victims of Chemical Valley in Sarnia. They don't care about big, long, thick documents that are produced. They don't care about this range of acronyms. They just want two simple things: They want to be able to file a claim, get it through the system and have it dealt with fairly, not drag on for 20 years. And, interestingly enough, they are also committed to real prevention, to making sure that other families don't have to go through the incredible suffering that they've gone through over the many years.

So I'm going to try to talk to you about some of the issues that you may have heard about this morning from the people who fly at 30,000 feet, about what I've seen in a workplace and about the people I talk to.

Let me deal first of all with this experience rating scam. What you have here, just so everybody understands, is a system that basically encourages bad practices. You have a system that encourages employers to lie and cheat so they can get money back on their WCB claims, in many cases literally millions of dollars. You're going to hear people talk about, "This has decreased and so many injuries over here have decreased." Let me tell you, in the real world what's going on is that employers are not reporting incidents because they know that if they don't, they can get money back from the workers' compensation system. If the system was really and truly interested in preventing injuries and ensuring that people have a safe workplace, they would not be paying liars and cheaters. What they would have is a system that provides money for investment in prevention and return to work. That's what you would see. Unfortunately, that's not the case right now.

You know, I sat here and I couldn't believe the blank faces on the board when somebody asked them about certification. Let me explain to you, as the board representatives pointed out, clearly there are provisions in the Occupational Health and Safety Act that lay out what a certified worker is. For those of you who don't know, the cornerstone of the internal responsibility system in our workplaces is making sure that workers and employers have joint responsibility in terms of inspecting the workplace and ensuring that it's safe. Key to that is making sure that people are certified and understand the act, their responsibilities and, more importantly, how to make sure their workplace is safe.

The Workers' Compensation Board is the organization that actually certifies these people. They provide the certification. Surely, the group that actually sends the card out, that receives the information when people go through the training, should know how many people are certified. More importantly, they should be absolutely sure that every single workplace under the law that's required to, actually has a certified person working there. It's not hard to do. We have computer programs; they can

just cross-reference. For crying out loud, they could even send out a survey and make sure that the certifications are in place, because they ultimately have the responsibility for the training.

1310

I wouldn't be surprised if somewhere between 30% and 50% of workplaces in this province don't actually have a functioning health and safety committee with certified workers. If you really care about preventing injuries, then the best thing you could do would be to put in a process to immediately make sure that every single workplace in this province is living up to the laws and has a certified worker. If you don't do that, all the rest of this becomes the subject of graphs and charts that people manufacture to meet their own goals.

Let me talk about an issue that is probably one of the most important issues for a lot of injured workers—and I know many of you have heard of this; you certainly know our position on it—and that's the issue of cost-of-living increases. You may or may not know this, but the Premier, just before the last election, sent me a letter. In the letter, he pointed out that the government had a plan—they're working on it—to index pensions. If you don't know this, an injured worker over the last 10 years has lost 26% of his income because of inflation. In four years, neither the board nor the government—whoever's dealing with this—has been able to figure out a way to make sure that those workers at the very least are made whole, but also clearly have a kind of income to make sure that they can feed their families. In contrast, I can't help but point out that it took you eight days to figure out how to give yourselves a 25% increase. Surely we can find some way to deal with that. Frankly, if the board isn't going to do it and the government isn't going to raise the issue and make sure it happens, then we all know that it'll never happen. I want to ask this committee to try and force the Premier to live up to his commitment and force the board to actually develop the strategies to implement it.

In closing, let me leave you with one more comment, because I'd actually rather have some time to have conversation with you, and that's the issue of coverage. You may or may not know this, but workers in all kinds of institutions that weren't in place in 1915 aren't covered by the Workers' Compensation Act. The previous government, to their credit, did a pretty comprehensive study on the issue of coverage. They issued a report, and the board endorsed the report. It said that there's something wrong when a woman like Maryam Nazemi works in a school that's not covered under the act and basically turns her life into a situation of complete turmoil and pain, only to find out that because of some quirk in the law she doesn't have the benefits and the access to the workers' compensation system and finds herself suffering daily because of it. That goes on.

The board, I should tell you, interestingly enough, approved this, I think, two or three years ago in a secret report that remained hidden in the Ministry of Labour until Andrea Horwath's office managed to get it under

freedom of information, which actually recommended that we should move on this coverage issue. Since then, we've seen nothing. I know that today you're going to hear presentations from employers, from people representing injured workers, from the IAPA representing themselves. But at the end of the day, all I can ask you is, please do not get caught up in all of these numbers and facts that people give you. Just rely on what you hear when you talk to people. When you talk to injured workers—or if you've got two minutes, go and talk to the victims of Chemical Valley about what they're going through. If you can do anything at this committee to get away from this focus on media spin, a focus where we actually have the chair of the board say that the best way to prevent injuries is to run ads—I can give you the quote: "The most effective way"—that's what he said—"is to run ads." What I would suggest to you is, the most effective way you could do this would be to make sure, within the context of the Workers' Compensation Board, that you're doing everything to enforce your ability to make sure employers live up to the laws. If you don't have people living up to the laws, at the end of the day we will increase the amount of injuries, suffering and pain for our workers and their families.

Thank you very much.

The Chair: Thank you very much. We'll begin our rotation with the government. Mr. Racco.

Mr. Racco: Yes, I hear what you're saying. The Premier has never committed to restoring COLA to the injured workers, just for clarification. On the issue of the advertisement, I'll leave it to all of us to make a decision, but certainly we have to do everything possible to prevent people from getting injured. I guess we've got to find the best way to deal with this matter.

My question to you is this. I understand that you receive funding from the WSIB. What do you use these funds for?

Mr. Samuelson: We use funding from the board directly to do training of workers around how to access the system. It's a comprehensive program run out of our office which deals with everything from ensuring that workers have access to basic training—and employers, I would add—in workers' compensation, how to navigate the system, how to deal with the terms. As part of the funding, we actually do an analysis of the impact it has on ensuring that the claims are processed through the system much quicker and more efficiently.

I'd be pleased to have any MPP who wanted to come up and have a look at it and see what we do. I should tell you that we don't have any big, palatial offices. It's pretty crowded and cramped, and people work a lot of hours a day. I think the key to it is that, while we get money from the board, we use literally hundreds of union activists whom we train, who go and then train people in everywhere from church basements to union halls all over the province.

Mr. Racco: The objective being to make sure that we minimize or we eliminate injuries?

Mr. Samuelson: Obviously, the relationship between actually having claims dealt with and their prevention is

clear; employers then make the connection much quicker. But I think it has a lot more to do with ensuring that workers can navigate the system effectively and make the system more efficient so that in the end it costs a lot less money to operate.

Mr. Racco: Okay. Another question, if I may—

Mr. Samuelson: Let me deal with your first question.

Mr. Racco: That was more of a clarification, not a question.

Mr. Samuelson: No, in your first question, did I hear you say that the Premier never said he had a plan for—

Mr. Racco: The Premier has never committed to restoring COLA to injured workers. That is a matter of public record.

Mr. Samuelson: That's in your briefing note?

Mr. Racco: No, that is my understanding.

Mr. Samuelson: Okay; it's wrong.

Mr. Racco: Well, okay. I guess we will—

Mr. Samuelson: He wrote me a letter on June 4, before the election.

Mr. Racco: The other question for you—we can double-check that—

Mr. Samuelson: Yes. I'll send it to you.

Mr. Racco: The question is, why did your organization support the 2005 decision by the board of directors to raise the employers' premium rate?

Mr. Samuelson: Why?

Mr. Racco: I'm not questioning; I'm just asking you. I'm not disagreeing with that. I just want to hear your views on it.

Mr. Samuelson: Because we believe that the administration of the system required the increase in the rates. I would go a step further, to say that I would much rather be supporting an increase for injured workers who can't pay their rent, are visiting food banks and are suffering every single day. But it was pretty simple why: We looked at the finance of the board and it just seemed to make sense and be a responsible thing to do.

But you know what? We could prevent a lot of these increases if we got rid of this experience rating scam that's writing out these million-dollar cheques to these companies.

Mr. Racco: Thank you.

The Chair: We'll move on to Mr. Martiniuk.

Mr. Martiniuk: Thanks, Mr. Samuelson. You can educate me as to this experience rating. I take it it's a type of incentive that would encourage, hopefully, businesses big and small to be concerned—well, I'm sure they're always concerned with their employees and their well-being, but by providing a monetary incentive in addition to that, one would hope that injuries and loss of lives have been prevented. Are you saying that they haven't been, due to these incentives?

1320

Mr. Samuelson: Yes, I'm saying that the experience rating system is set up where you tell me how many accidents you had and then I decide, based on what you tell me, how much money I'm going to give you back. It's kind of like, Gerry, you're driving from Cambridge.

You jump on the highway and you drive to Toronto. When you get to Toronto, somebody stops you and says, "Did you speed?" and if you say, "No, no, I only went the speed limit," they give you a thousand bucks. What are you going to do? What are most people going to do, even if they did speed? The system is set up to encourage that kind of behaviour.

I'll give you a good example. We all read in the paper this week, under a big headline, that the city of Toronto is in a high-risk category. There are two reasons why the city of Toronto could be in a high-risk category. One reason is because they could have a lot of accidents. The other reason is because they're not only having accidents, but they're actually reporting them all because they have a union there that forces them to report them.

If you haven't talked to injured workers who have been in this situation, I'd be surprised. I worked in a factory. Someone could break their arm and they'd sit them in a corner there for six months if they had to rather than put them off on compensation, because they do the math and at the end of the day it's cheaper. And that happens every single day right across this province, all under the radar. It's all based on a system that rewards employers for doing those kinds of things.

If you're really serious about it, if you wake up tomorrow morning and you really want to make a difference and you want to put incentives in place, you put them in place for proactive measures that will actually make the workplace safer, whether it's return to work or a range of other things.

I'm not trying to be melodramatic here, and what I'm talking to you about are experiences I've had, so I don't put a lot of faith in those people who give me graphs and charts, because they sure don't balance off with what I see.

Mr. Martiniuk: What's a proactive step?

Mr. Samuelson: Well, let's say that if an employer actually has an effective and co-operative return-to-work program, we put some kind of incentive in there. I'm prepared to look at that.

I've got a question for you. Do we even know if anybody who got a rebate under the experience rating system actually has a functioning health and safety committee, has a certified worker? Have we bothered to check? I would argue that if you were to go and check those ones that are high-risk, you may often find in fact bad practices. I'll bet you there are some people who are at the very top of the sphere, and if you went and checked them effectively, you'd probably find they have equally bad practices; they've just found better ways of hiding them.

The world is changing, right? In your community, the workplaces that were there 20 years ago aren't there. There's a constant evolution in where we all work and the kind of work we do, but it's really hard to get the system to respond to those changes and to recognize, especially with a system that's been in place for 20 or 30 years, that it has evolved over time to become increasingly unfair.

Mr. Martiniuk: Thank you.

The Chair: Okay. Any further questions?

Ms. Horwath: Just really quickly, what percentage of the OFL budget is covered by WSIB funding?

Mr. Samuelson: Oh, God, I don't know the percentage. I don't know how much it is—probably 10% or something like that. I don't know.

Ms. Horwath: Okay. And how many members of your board, the OFL kind of executive, are staffers of WSIB?

Mr. Samuelson: My board? None.

Ms. Horwath: Thanks.

The internal responsibility system and how it breaks down, in terms of the comments you were just making on the experience rating process and all of that, makes me really concerned, because when I asked the question specifically of the chair when he was in the seat it made it sound like I was somehow mistaken in asking about certification of workers and trying to relate that to the possibility of using that system to get some more accountability for workplaces, to get more opportunity to actually reduce injuries.

It makes me concerned because I see the board undertaking other initiatives, one of which is piloting in my own community—in the industrial sector, anyway—and that's the early and safe return to work pilot project. I've been talking to my Steelworkers local that is involved in this project. I've also received an initial draft response from ONA and their remarks to the WSIB on their early and safe return to work. There doesn't seem to be a commitment to making sure that there are certified workers who are making sure that workplaces are safe. Then, when we're talking about initiatives like early and safe return to work, it seems to me that there might be another agenda afoot that's not really about safe return to work but rather about reducing costs. I'm wondering if you could comment on that.

Mr. Samuelson: I think this is one area where there actually could be, if we all work on it together, a benefit on both sides because it's obviously in the interest of a worker who has been injured to get back safely to work and there's an obvious interest to the employer. So there are some opportunities. The challenge for us is to be bold, frankly. I would argue that just as we have certified, trained workers to deal with workplace injuries, we should have certified, educated people to deal with return to work. That's part of the work we do with our project. There are some opportunities.

It has been the case, when I worked in a factory, that they would drag people back to work often long before they were ready simply because of the rates. People would re-injure, and there are all kinds of consequences far beyond the monetary consequences on people's lives and their families.

I think the short answer is, there are some opportunities there. There are some mutual benefits. But there are some huge perils for workers if we don't deal with this effectively, and I'm talking about perils that affect their life and their ability to, for example, lift up their

child when they go home at night and all the things that many of us take for granted. I think it's an area where we need to be really concerned as we move forward.

Ms. Horwath: Do I have time for another quick one?

The Chair: A quick question.

Ms. Horwath: You had raised the issue of coverage in the Brock Smith report that was taken off the shelf and brought into light not too long ago. What's your understanding of the industries or the areas of the economy that are currently not covered by the WSIB, and what would you think would be the reason for the government to be resistant to expanding coverage to those industries?

Mr. Samuelson: First of all, let me explain why. When the act was put in place in 1915, many industries that exist today didn't exist then; therefore, they're not included in the act, so as a result they're exempt. As well, there are corporations that fall under federal jurisdiction which aren't covered, so it covers everything from private schools to banks to insurance companies.

In light of, as I said, the very comprehensive study done by the Conservative government and the report that was prepared by Brock Smith, it makes a pretty compelling argument for why we should have coverage. I think the only reason that we don't have the coverage is because the government of the day doesn't have the guts to stand up to that small group of employers that don't want to fall under the act.

I've got to tell you, if you're really concerned about prevention and you're really concerned about return to work and the role that the board plays, then you should make sure that every worker has access to it, not just those who happened to fall into some slot in 1915.

The Chair: Thank you very much for coming here today. We appreciate the opportunity—

Mr. Samuelson: It's been my pleasure. I was really excited. I'm disappointed Mr. O'Toole isn't here because he provides some real energy and excitement to the committee. To tell you the truth, if I'd known he wasn't going to be here, I probably would have passed on the opportunity to speak to you.

The Chair: Thank you very much.

1330

CANADIAN MANUFACTURERS AND EXPORTERS, ONTARIO DIVISION

The Chair: I would like to now call on Ian Howcroft, the vice-president of the Ontario division of Canadian Manufacturers and Exporters.

Good afternoon, and welcome to the committee. We have 30 minutes, and you may wish to divide the time. Whatever time is left over will be divided amongst the three caucuses.

Mr. Ian Howcroft: Thank you very much, Chair and members of the committee. We're very pleased to be here. My name is Ian Howcroft. I'm vice-president of the Ontario division of the Canadian Manufacturers and Exporters. With me is Maria Marchese, who is CME

Ontario division's workers' compensation and health and safety policy director.

We'd like to thank the standing committee on government agencies for this opportunity to provide input in your evaluation of the operation and performance of the Workplace Safety and Insurance Board. Before I talk about the substantive issues, I think it's important to highlight a few things about CME and about manufacturing in Ontario.

Canadian Manufacturers and Exporters is the voice of the manufacturing and exporting community in Ontario. Our member companies produce about 75% of the province's manufactured output and are responsible for about 90% of the province's exports. CME represents a broad variety of industry sectors including automotive, plastics, steel, pharma, food, resource-based and high-tech industries. It's important to note that a significant portion, about 85%, of our members are small and medium-sized enterprises. Consequently, CME is well equipped to represent the voice of manufacturers and exporters here in Ontario.

Manufacturing comprises about 20% of the province's gross domestic product and contributes approximately \$300 billion to the province's economy. Further, the manufacturing sector provides employment to over one million Ontarians directly, and a little-known fact is that almost two million more Ontarians have jobs that are indirectly dependent on manufacturing.

We've all read the stories in the paper and heard the news on the radio and on television concerning the challenges facing manufacturers. Over the last two years, in Ontario, we've lost over 100,000 of those highly coveted, well-paid manufacturing jobs and we've experienced about 300 plant closures. Increasing competition, the high dollar, skill shortages and rising input costs have all contributed to the challenges that we face.

CME has been a long-standing participant in the debate and discussions surrounding workers' compensation and the workers' compensation system. In fact back in 1914, CME—we were known then as the Canadian Manufacturers' Association—participated in and provided input to Mr. Justice Meredith as he designed Canada's first workers' compensation system.

At the agency and government levels, CME has participated in many standing committee presentations, task forces and royal commission initiatives involving the workers' compensation system. Workers' compensation remains a top-priority issue for our members. In fact, we have two committees dedicated to these issues: our workers' compensation committee and our occupational health and safety committee.

With respect to the issue of the operation and performance of the WSIB, we wish to begin by saying that we're very pleased that the position of the chair was filled last spring with the appointment of Mr. Steve Mahoney. Mr. Mahoney has made great strides in improving communication with the employer stakeholder community. CME has always had access to the senior levels of the WSIB, but with the chair's appointment,

we've been able to build on this access. The issues of access and communication are crucial.

The most important and financially significant decisions about the system are made at the senior management levels, and it is vital that this group is aware of the significant impact which their decisions have on the employers and, ultimately, the economy of Ontario. CME recognizes that significant resources and time commitments go into granting access to senior management and that the effort is appreciated. I should note that CME did make a presentation to WSIB's senior management, team year that dealt with our 2020 initiative, the future of manufacturing. We're very concerned with these challenges, and over the last couple of years we have been very involved in soliciting input from our members. We've called that initiative Manufacturing 2020: What do we have to do now to ensure that we have a vibrant, growing manufacturing base in Ontario in the year 2020?

We thought it would be very useful for the WSIB to hopefully better understand one of their major client bases, and we're very pleased with the opportunity to present to them. Notwithstanding this accessibility and the communications at the senior levels, there seems to be at times a disconnect which prevents our message from resonating down to all levels within the WSIB. I'll discuss this in a few minutes.

Last year, Mr. Mahoney announced that the average premium rate for 2007 would remain unchanged from its 2006 levels. We view this as an acknowledgement that there were inconsistencies between the increasing WSIB premium rates in previous years and the successes that had been achieved by employers in improved health and safety in their workplaces, which had been evidenced by an ongoing decline in lost-time injury rates.

We're also pleased to hear that Mr. Mahoney has indicated that another freeze is even possible for 2008.

We feel, however, that there are a number of areas where progress is still needed. Communication problems continue to plague us, both as an association and our members specifically. First, our members continue to list lack of communication from the board regarding the adjudication and management of their lost-time claims as their number one service delivery issue. Whether it's finding out about the status of a new claim and why it would have been allowed or learning about labour market re-entry programs which their workers have been approved for without their knowledge or input, it's of great concern. Lack of communication continues to exist for some of our members.

Employers have a right to know about any and all decisions made and claims that they are both individually and collectively liable for. This would not, however, appear to be a value held by some of the decision-makers. As a consumer, it is their right to know and not a privilege which the WSIB grants or withholds. We believe that for communication to improve, there must be more accountability expected from those decision-makers.

The implementation of service delivery expectations is a first step to improving communication. Decision-

makers must be accountable for ensuring that service delivery expectations are met.

As an association, we are also disappointed with the lack of communication as to policy initiatives, program changes, pilot projects undertaken, or other board-initiated reviews either under way, being considered or already approved for implementation in many cases. We have recently had the situation where we learned about a pilot project of potentially significant financial importance through a member of ours who was apparently involved in the pilot but had no idea of the pilot's existence or details. In this instance, the WSIB confirmed that they had provided no communication with the employer association, other than to one government agency.

At one time, the WSIB had a consultation advisory group which consisted of employer associations and worker representatives. The WSIB has not reconvened that group in over three years, despite our requests to do so. Today, only major policy initiatives are communicated at any great length with employer associations.

CME recommends the immediate re-establishment of a vehicle to update employer stakeholders on all of its initiatives and advise how employer participation can occur.

We are also of the view that improvements are necessary from the perspective of financial responsibility and accountability. CME has been a long-standing advocate of a legislative requirement that all WSIB initiatives be costed out to understand the full import and impact that they will have on the system. In fact, we feel that our position is enshrined in the purpose clause of the WSIB act. Section 1 states that the purpose of the act "is to accomplish the following in a financially responsible and accountable manner..."

Again, we feel that section 161, particularly subsection (2), suggests a strong and clear obligation to cost out new programs. Subsection (1) directly incorporates the purpose clause into a board function; that is, to perform its operational functions in a financially responsible and accountable way. The duties of the board are clearly spelled out under subsection (2), where it states:

"Duty to evaluate proposed changes

"(2) The board shall evaluate the consequences of any proposed change in benefits, services, programs and policies to ensure that the purposes of this act are achieved."

Despite this legislative requirement, we continue to see initiatives, pilots and proposed policies come through without any indication as to the cost of what these proposed changes will be or the impact that they'll have on the system.

The most recent consultations on early and safe return to work are an example of this failure in the system. CME had been asking for a costing of the proposed policy since the consultation began about two years ago. To date, the consultation period ended in February, and no costing details have been provided. Costing data is vital as cost impacts employers directly in the premiums which they pay and through their experience rating

adjustments and indirectly through their collective liability responsibilities, as that shows up in the unfunded liability.

Transparency in the financial details is also vital, but it too is absent from the discussions. We believe that the employers who fund the system have a right to know how proposed or already implemented changes will impact them financially.

We recommend that the WSIB provide cost estimates for all policy programs, pilots and any other changes being recommended or considered. This information should be made available at the time the proposed changes are tabled for discussion and for consultation. No policy or program changes should be approved or moved forward without this information.

1340

Experience rating has been a long-standing system enshrined in legislation as a program of the WSIB. However, changes to the program have continually contributed to the financial erosion of the plan as a merit program, and hence the impact it can have to improve health and safety. At one time, the WSIB sought the advice of its experience rating working group prior to implementing any changes. That group, in our view, has become disbanded. The WSIB may not have formally disbanded this group, but in reality it has not been called or met in about three years. From a communication perspective, we believe the WSIB and employers would be better served to have us at the table to discuss these proposed changes. We would like to stress our continued support for experience rating and for the safety group program that exists at the WSIB. Safety groups is one of the most successful programs that we've seen, and we feel it still has a great deal of potential to improve health and safety throughout the province of Ontario.

We also believe that the WSIB must begin to make better use of technology. Although electronic mail has become the norm for business, the WSIB has not seemed to follow suit. Mail and faxes are the main communication vehicles used. We believe the WSIB must move forward to keep pace with businesses in the manner in which it communicates with its clients.

Also vital for the workplace compensation system is the better collection and analysis of the vast amounts of data that exist. CME finds as a source of unlimited frustration the extent to which information which we believe should have been collected is, unfortunately, not collected. Early and safe return to work is an example of data which should be collected and either is not collected or will not be realized in details required by the employer community.

The last point we'd like to comment on is that of revenue leakage. The WSIB has been grappling with options for dealing with revenue leakage for a long time, particularly in the construction industry: CME supported the Council of Ontario Construction Associations' proposal of a named insured system. Action on this item has been slow in coming, but we again think there is a great deal of potential. We urge the government and the WSIB

to move forward on this proposal and begin to take steps to ensure that all employers who are required to contribute to the workplace compensation system do so. It's unfair to those who are paying their fair share to have others not pay.

There are a good many people at WSIB, and we want to reiterate our desire to work with them to improve the system in a positive and constructive way. The WSIB, like Ontario manufacturers, faces many challenges, but that's the nature of doing business in 2007. We won't be judged on the magnitude of the challenges that we face, but rather on the implementation of the solutions to deal with those challenges.

Maria Marchese and I would be pleased to answer any questions or hear any comments that anyone on the committee has. Again, thank you for the opportunity.

The Chair: Thank you very much. We'll go now to Ms. Scott.

Ms. Scott: Thank you for your presentation here today. You've brought up a lot of topics. A good reason why we're here and reviewing the WSIB agency is to see how we can make it better and to get inputs more on record, for us to have the opportunity to be more educated on the process.

The last point that you did make, the proposal for a named insured system: I wonder if you could expand a little bit, within the time frame we have, about what types of steps you would like to see brought forward with that.

Mr. Howcroft: I'll ask Maria to provide some more details, but right now, employers pay their workers' compensation premiums on their payroll. There's no list of who actually is covered. There was an initiative by the Ministry of Labour last year to deal with some of those people who are independent operators or who claim to be independent operators and should actually be covered by the system. A named insured system would be one way of dealing with that. You would know who premiums are being paid for and who should be covered under the system. All private insurance companies would have named insureds. They wouldn't be insuring just a global bloc of workers or individuals who may come forward with a claim at some point in the future. That potential or possibility, inevitability, exists right now because of the current system—again, particularly in the construction industry—and there has been a lot of debate and examination of how to deal with that. There was a proposal by the ministry to look at including under coverage those who are considered independent operators who are in fact employees.

Maria, is there anything you want to add on that?

Ms. Maria Marchese: Just that, since a lot of employers already have a process in place for dealing with extended health care, it would be something that would be doable.

Ms. Scott: With the early and safe return to work, there seems to be a lot of data collection, but, as you say, it doesn't seem to be—the information isn't deciphered as to what are the stats on early and safe return to work. I have a lot of people in the riding who just can't seem to

find the right job to go back to. Do you have any further explanation or initiative that you'd like to see there?

Ms. Marchese: From the perspective of data collection, the WSIB collects an awful lot of data, but it isn't data that we can use as an employer community. What we think would be useful would be for them to sit down with us and say, "What are your needs, particularly in the return to work?" The WSIB just finished up their consultation on early and safe return to work in February. It's a consultation that began more than two years ago, actually. One of the things we found missing from the document beginning two years ago and the current document was the research really in support of the proposed changes.

Ms. Scott: Can you give me an example of a proposed change?

Ms. Marchese: Policy deals with a number of changes.

Ms. Scott: Okay, there's nothing specific, then.

Ms. Marchese: There are a number of changes that the policy paper goes through as far as how to amend policies to what the board says improves their return-to-work process.

Ms. Scott: You were saying that you'd like to see more of a consultative process exist within the industry—CME and everyone involved—about the costing that would occur. Can you name a pilot project that maybe has been done that you would have liked to see? Can you give me an example?

Mr. Howcroft: I think we'd like to see all pilot programs and all initiatives costed to find out what that impact would be. It would be part of the consultation process. The WSIB, when it does consultations on initiatives, would often provide some background information or a discussion paper to start the consultation. We think it's essential, as part of that, that there be some cost and financial information, to know what that impact will be, to allow the board and the employers to provide input to them in making that decision.

Ms. Scott: So who would, say, project the costs?

Ms. Marchese: That would be the WSIB, and that would be what we see as part of the process when they develop a paper for consultation. At the very least, when it goes to the board of directors, I would expect that the board of directors would be asking for that same information. So at some point it should be released, and we're saying that we'd like to see it when the paper comes out for discussion to begin with so we can also have input as to the cost side of this.

Ms. Scott: So you take their numbers to start with and just do a comparative—

Ms. Marchese: Well, to have, in fact—

Ms. Scott: Feedback. Okay. I appreciate that. It sounds like a good initiative that would be certainly clear on both sides and could be moved forward on. Those are all the questions I have.

The Chair: We'll go to Ms. Horwath.

Ms. Horwath: Just kind of following in the same vein in terms of costing things out, has the Canadian Manu-

facturers and Exporters organization done any studies and costing out of what kinds of cost threats you would have if there was no WSIB system? For example, have you done any studies yourselves or are you aware of any studies that would indicate what cost impacts the manufacturing sector would have if there was no insurance system like the WSIB in terms of private suits?

Mr. Howcroft: We haven't done any costing of that. As I mentioned, we were involved in this back in 1914, and we continue to support a publicly funded workers' compensation system. We think that is the best way to go, particularly since there is a \$7-billion to \$8-billion unfunded liability in existence. What we want to do is make changes to support the retirement of that debt by 2014. We have members who have operations in other jurisdictions in the United States, and the input and feedback we get is that the Canadian system, notwithstanding some of the challenges, is still a better way to go, a better process to have, than being subject to a partial public system and a private system and subject to lawsuits and uncertainties as to what those costs would be. So, notwithstanding the challenges and frustrations that we feel, we are still supporting a publicly funded workers' compensation system.

Ms. Horwath: Okay, that's great. Can I just ask you if you are aware of any studies that indicate that there is a significant number of injuries that go unreported in Canada? There was one study recently published that indicated that 40% to 50% of work-related injuries in Canada go unreported. I'm wondering if you've got any awareness of that or if you could provide any understanding to me from a manufacturer's perspective, or from the perspective of an organization that has manufacturers as members, what the disincentive would be to report accidents? Why would there be so many accidents in the workplace that would go unreported?

Mr. Howcroft: Our view is that we don't think there are that many that go unreported. I'm not familiar with the study that you have. Mainly when I've heard of that, I've just heard of allegations and claims that there are a lot of unreported incidents or accidents. I missed the former presentation by the OFL, but I've heard them often say that experience rating is an incentive for employers to hide claims. That has not been our case; that has not been our experience. Anybody who's hiding claims or not reporting as they should should be subject to the penalty provisions of the act. We take our role very seriously, educate our members as to what the requirements are and provide them assistance. We want them to report everything that they should be reporting. Our goal is to help them eliminate the accidents so that they don't have to report an accident because there wasn't one, not because they're trying to hide something.

1350

Ms. Horwath: You mentioned in your report, on page 3, that there is a significant project that you had not been consulted on, but you don't name what that pilot project was. You said it suddenly became clear because one of your members actually indicated that they were part of

that pilot project without even really knowing very much about it.

Ms. Marchese: It's the pilot project that the board is conducting in the Hamilton area on the non-economic loss, the permanent impairment project.

Mr. Howcroft: We found out about that because a member contacted us to inquire about it. We weren't aware of it and had to look into it to find out the details.

Ms. Horwath: Sure. You talked a little bit at the end of your presentation about the concern about making sure that all employers who are currently required to contribute actually do. Do you have an opinion about the expansion of coverage to all employers in the province of Ontario? There are currently many workplaces that are not covered by WSIB. You might not have been here, but the chair indicated earlier today that the board certainly supports the idea of having all employers, all workplaces and therefore all workers covered by WSIB. Have you considered that issue at all? Do you know anything about that? Would you be supportive of having that complete coverage?

Mr. Howcroft: We looked at this a few years ago when the ministry was conducting one of its initiatives on coverage. At the time, we thought, where appropriate, more workers should be covered. But in our view, it didn't necessarily make sense just to cover everybody at large. If they were already receiving insurance coverage that was at a similar level to what the WSIB would provide, and they could prove that demonstrably, then we didn't necessarily support the expanse of the coverage. Maria, do you—

Ms. Marchese: No. That was it.

Mr. Howcroft: That's still our position. So we haven't supported blanket coverage for everybody, but there are certain industries, certain positions and certain workers who we know are not covered. It makes no sense that they aren't covered, and they should be covered.

Ms. Horwath: Like those in construction?

Mr. Howcroft: Well, yes. If you are a worker in construction, not an employer, a true independent operator, then you should be covered. But there are other anomalies too, because the jobs that didn't exist back in 1914 aren't covered now, and they would have been had that job existed in 1914. It makes sense to cover them.

We weren't convinced at the time that the banks needed to be covered, because they were providing coverage. If the banks could demonstrate that they were providing that similar level of coverage, then we said there was no need to cover them. But that's up to the banks to be able to show, which they were doing at that time.

Ms. Horwath: Thank you.

The Chair: We'll move on to Mr. Milloy.

Mr. Milloy: Thank you very much for the presentation. We actually had a chance to talk last week when Mr. Mahoney spoke to your organization in my community.

I just wanted to start with a somewhat simple question. As a group that represents a large segment of the em-

ployer community, what are the thoughts of your membership, your association, on the issue of benefits that are paid to workers? You've heard today a number of presentations. Mr. Samuelson just spoke about a cost-of-living increase or increasing the benefits. I'm just curious what the employer side of the equation's position is.

Mr. Howcroft: We think the system should be providing a fair level of benefits for workers, but we also think that the system does provide a fair level for most workers. There are probably some anomalies or situations where a worker doesn't get the benefit that they should, and we should be able to have that addressed. But just increasing the benefits up to, say, 90% of net, where it was before—we saw many cases where people were actually earning more money to stay home, off employment, because they were getting more money from the workers' compensation system. You shouldn't be getting more to stay home. But we support a fair compensation system. The last time that we looked at this and discussed this, we felt the current levels did provide that.

Mr. Milloy: Okay. We only have a second so I'm going to jump around to other subjects. As we heard from the chair this morning, as well as its role as an insurance provider, the WSIB also works, in terms of health and safety, with employers such as the ones you represent. What's been the sense in the last few years of their success in helping you as an organization bring down the accident rates?

Mr. Howcroft: I think we've seen a lot of success in the accident frequency rates in the province. Over the last 10 years we've seen a dramatic decline in frequency. We agree that the board should have a prevention focus to eliminate accidents in the first instance. So we support that. We've partnered with the WSIB in a variety of initiatives to try to help realize that. There are probably some improvements that could be made to better coordinate and streamline some of the activities that do take place in prevention to better delineate the roles and responsibilities among some of the players in the system, and we'll continue to advocate for that.

We also are aware that notwithstanding the decrease in accident frequency, there are still a lot of fatalities that have taken place, which we have to continue to keep our eye on and focus on and improve. So we've seen successes. We agree with the board we need to focus on prevention, but we also recognize there's a lot more that still has to be done.

Mr. Milloy: And as an organization, you're involved with health and safety campaigns independent of the WSIB, are you not?

Mr. Howcroft: We have our workers comp and health and safety committees. We use them to promote to our members. We have our communications vehicles. We work with health and safety associations, particularly the IAPA, to promote improvement of health and safety. We have, with our partner the Employers' Advocacy Council, a safety group that we promote, as I mentioned, as one of the best programs the WSIB has to deal with prevention. So we're doing a lot of things on our own, but

we're also thinking and recognizing that a lot more can be done by identifying strategic partners with particular goals to move forward more expeditiously than one can do on one's own.

Mr. Milloy: Do I have time for one more?

The Chair: One more.

Mr. Milloy: Finally, just as I said, we had a chance to meet last Friday with the chair, and you began in your remarks by talking a little bit about the relationship. Are you feeling that you're being heard by Mr. Mahoney and the senior staff? I realize there's still work to be done, but the relationship is one that's developing in a positive way?

Mr. Howcroft: I think it is developing in a positive way. As I said in my presentation, we've never really had a challenge in getting access to the WSIB. We've had a good dialogue at the top levels. However, when it comes to actioning some of the points that we think need to be actioned or implemented throughout the WSIB, we feel that is the part of communication that needs further consideration and further improvement. So far, we've been pleased with the new chair's approach to that and we look forward to strengthening the communications that we have and building on some of the successes we've had in dealing with the ongoing challenges that we identified in our paper.

The Chair: Thank you very much. We've run out of time but we do appreciate your being here today and adding to the discussion.

CANADIAN FEDERATION OF INDEPENDENT BUSINESS

The Chair: I would like to now call on the Canadian Federation of Independent Business, represented by the vice-president, Ontario, Judith Andrew, and Satinder Chera, the director of provincial affairs.

Just before you begin, I want to mention to those present that if they were aware of the appearance of a number of people for a very brief moment, I'd just like to let you know that was the research team on standing orders from the Cayman Islands Legislative Assembly. I was hoping to introduce them, but they have already left. I did want you to know that we are being visited by members of the Cayman Islands Legislative Assembly.

Welcome to the committee. We do appreciate your being here. As you know, you have 30 minutes in which to present. Allow time for questions, if you so wish.

1400

Ms. Judith Andrew: Thank you, Chair. We appreciate the kind welcome. I'm Judith Andrew. I'm vice-president, Ontario, with the Canadian Federation of Independent Business. I'm joined by my colleague Satinder Chera, who is CFIB's Ontario director.

You should have kits before you. We've brought quite a lot of information, all of which we won't be able to touch on today, but we'll try to give you a bit of a glimpse of it. We also have a slide deck to go through. I guess maybe we'll refer to the other kit items as we go.

Our presentation is entitled Rating the WSIB, but we could not come here without also addressing what we think would be the next big breakthrough in workplace safety. Our information is based on our surveys and communications with our members. It is very data-oriented. We think this is actually a very good way of getting the views of small and medium-sized business forward to the Legislatures. So our agenda today is to convey their views, talk about the breakthrough and then give you some of our recommendations.

Turning to the slide that deals with CFIB's Ontario member profile, just to give you a sense of the breadth of the economy that the Canadian Federation of Independent Business represents: Of course, small and medium-sized enterprises represent in numbers 98.5% of all businesses. They represent more than half of the jobs in the economy, nearly half of the gross domestic product in the economy, so they're a pretty important part of Ontario's prosperity. Our own organization is a non-profit, non-partisan political action organization. We advocate and give small business a big voice. Here in Ontario we are proud to represent 42,000 small and medium-sized enterprises.

The next chart is, by way of introduction, the ranking, or where the WSIB fits in terms of our members' priorities. You will see that WSIB is indicated as an important issue to small and medium-sized businesses by 43% of our members. This is a survey that's conducted in person, face to face, with our members at their business premises, so in effect it's more of a census than a survey, and there are thousands and thousands of respondents to this. I guess what is important here is that if four in 10 small businesses are saying that this is an important issue to their businesses—and for most of them, their only engagement with the WSIB is to send them premiums—this is something that bears examination by the committee.

Turning to the next slide, we recently posed to our members a question dealing with value for money for the premiums that our members pay. We asked them, "How satisfied are you with the insurance protection and the other services you receive from the WSIB for the premiums you pay?" Unhappily, over half of the small firms are dissatisfied with the value for money, so that is clearly a challenge. They're paying a lot of premiums and are not really happy.

The next slide shows a study that we did dealing with regulatory burden. This was a national study. It's entitled Rated R: Prosperity Restricted by Red Tape. A copy of that study is in your kit. The overall finding was that in the province of Ontario regulation costs small and medium-sized business close to \$13 billion. Regrettably, workers' compensation is at the top of the list in terms of burdensome provincial regulations, with 60% of respondents indicating WSIB as a regulatory challenge for them. So it's both a taxation issue for our members and a regulatory challenge.

I'll just turn to Satinder for some words on experience rating.

Mr. Satinder Chera: Thanks, Judith.

The next slide: We asked our members to rate the experience rating programs that are provided by the WSIB. Generally speaking, our members were somewhat happy with the way those programs are run. We think that experience rating is actually an important program, an important piece of the puzzle, because really, when you see accident rates that have been going down over many years, and then an employer sees his or her premiums going up for whatever reason, they need some hope within the system. This program acknowledges the fact that employers are doing a good job of bringing down their lost-time injury rates.

The board has claimed in the past that there are more rebates going out than surcharges, which essentially means that employers are doing a pretty good job of bringing down lost-time injury rates. In other words, the board is issuing more rebates than surcharges because, again, employers' lost-time injury rates are going down, so as a result they're getting more money back into their pockets.

The next slide: We talk a bit about small firms pointing to mismanagement as one of the reasons for the board's funding problems. I should say that this survey was done in 2005 when the board was conducting hearings or consultations with employers on their funding plan. We asked our members to rate what they thought were the main challenges. The board indicated that there were some significant problems within the funding program and that, in fact, we needed to revamp it. I know that earlier the chair mentioned that he doesn't think there's much abuse in the system, but when we've asked our members, worker abuse of benefits and/or return-to-work programs have been rated pretty high. Poor management at the WSIB and WSIB administrative costs have also rated fairly high when our members have been asked what they think are the main problems at the board.

The next slide, "The 2004 audit was scathing": Premier McGuinty made a commitment to our members in the last election to hold an independent audit of the board, and those are some of the findings that the auditors found. We have been told that follow-up audits have showed marked improvements over that initial audit. The funny thing, though, is that we're having some difficulty trying to find where those follow-up audits are. Perusing through the Ministry of Labour website or the WSIB website, you're pretty hard-pressed to find that document anywhere.

The next slide, "Example of failure to manage costs": We think that there are a lot of inherent problems within the board's programs that really need to be addressed. In 1999, the WSIB implemented a new health care model. It was designed to address health care costs but also to effectively address the injuries that workers had sustained in the workplace. We have been asking, year after year, for an analysis of that model to show what impact that model had, not just on returning workers to their place of employment much more quickly, but also in terms of managing costs effectively. We have not been able to get that type of analysis from the board. We have been

asking for many, many years now, and we've not been able to get our hands on that.

To reduce the possibility of abuse in the system, we have advocated for a good 20 years now—my colleague Judith Andrew has—that we think a way at the cheating or at the underground economy is to bring in a named-insured approach: to track those who are registered and those who are not. It's interesting to note, however, that the WSIB and successive governments have tried instead to get their hands on more revenues from independent operators, owners, officers and directors of companies.

The next slide, "Example of high administrative costs": When we asked our members, "Should WSIB employee salaries lead, follow or equal a fair comparison of match occupations in the private sector?", 62% believed that it should be equal. In 2005, 162 employees at the WSIB were making over \$100,000 and, according to the board's own 2005 annual report, there was a \$612-million deficit in their pension and medical benefits. We know from recent studies we've done that public sector employers pay much more generous benefits than those that are found in the private sector. Incidentally, the private sector is the one that helps to fund, through its tax dollars, the public sector pensions.

The next slide, "Small firms rate WSIB funding principles": Again, when the board initiated their discussions on the funding formula, we took those different elements that they had put out for consultations and we put them to our members. Our members rated, again, fiscal prudence and accountability at the very top; minimizing system costs—I'll come back to that in a second; stable and predictable premium rates; and equity among employers.

The next slide, "A word about the funding framework": It's interesting to note that over the years when we've been serving our members, the principle of collective no-fault compensation in exchange for immunity from negligence lawsuits is deemed to garner lower and lower support. Again, we think that that is a direct result of the frustration that small business owners are faced with when they have ever had to deal with the WSIB. I'll get to that in a second.

"Minimizing system costs": That wasn't even a part of the board's 2005 funding framework, even though we provided them the results of our members' survey data well before they made a final decision on that. We found it quite surprising that the idea of minimizing system costs wouldn't be in there—very significant, we think, particularly when you consider that the board's own funding framework document acknowledges that health care costs and occupational disease claims are likely to change. All they know for sure is that costs are likely to go up even further.

1410

The next slide, "Should the Ontario government allow businesses to provide workers' compensation insurance coverage through private insurance firms?": When we asked our members this some years ago, 75% said yes; again, a direct link to the frustration that they've been

having with the board and the continuing decline of the collective no-fault compensation principle.

The next slide talks about, "Should 'ordinary diseases of life' be excluded from eligibility for workers' compensation claims?": Again, 77% say yes. In the past, we've made it very clear that no one disputes the fact that you do have to provide compensation to those who incur legitimate diseases on the job. The question is, how do you do that? One of the alternatives that we've put on the table is that perhaps this should be covered by the provincial government.

The next slide, "WSIB unfunded liability": This morning we heard that although the board is still committed to the 2014 target, that very much depends upon costs and whether or not they go up even further. It's quite frustrating to hear, especially when the board, in 2005, said that they needed a 3% increase in order to deal with the unfunded liability. What happened to that 3% increase? What did they do with that money? I think that's an important question to ask.

The next slide, "Minimizing undue costs would help with the unfunded liability": The WSIB acknowledged, when they had the round table with employers back in 2005, that there were certain amendments to Bill 99 that had resulted in unforeseen costs in the millions of dollars. The chair this morning mentioned that the WSIB and executive are not lawmakers; in fact, they're just there to administer the program. But surely, if the system is broken, you would think that those who are administering the system would recommend to the government that, "Yes, changes need to be made. You are in the best position to make them, so please do so."

With that, I'm going to hand it back to Judith for our final remarks.

Ms. Andrew: The next chart shows data from the WSIB and Ministry of Labour dealing with the lost-time injury rate. We haven't been able to bring it right up to date, but it shows, over quite a long period of time, a pretty substantial and commendable decrease in the lost-time injury rate in Ontario. We're down around—two per hundred is what it should be, which is actually significantly different, I think, on average, than what the city of Toronto seems to be showing these days. Their accident rate is up near 4%. Businesses, overall, in Ontario are doing quite well.

We've done studies amongst our members about what the challenges and opportunities are on health and safety. Our members attribute the reduction in lost-time injury rates to generally businesses doing a better job of overall quality performance. There's a variety of other reasons there, but businesses really have been focused on this.

The next slide shows a rather perplexed person looking at the health and safety system in Ontario. It's a bit of a constellation out there. There are so many organizations and agencies involved and, for the most part, payroll taxes collected through the WSIB pay for all of this. There are so many initiatives on health and safety, generally uncoordinated, and the business owners are certainly challenged both in paying for them and having access to them.

We asked, at one point a few years ago: “Should the WSIB monies be used to fund outside organizations?” I should say, for your information, that all of these mandate questions of our members and their text in detail are enclosed in your kits. On this particular question, it explained all the different things that WSIB monies are used for. At the time, apart from funding all the safety associations, which actually are under the wing of the WSIB and not a separate stakeholder, there was money being given to run the Ministry of Labour’s own occupational health and safety branch. So everybody has their hands in the cookie jar. Money is used to run government and money is used to run the various appeal tribunals and advisory offices. The WSIB gives research money to the Institute for Work and Health. Through the Office of the Worker Adviser at that time, money was being given to the Ontario Federation of Labour, the provincial building construction trades councils and various networks of injured workers’ groups. There’s a lot of money that’s collected in premiums that, in our view, should be used for the WSIB’s own purposes. It’s given elsewhere. Most of our members don’t support that.

The next slide gets into what the next big breakthrough in occupational health and safety would look like in Ontario. For this purpose, we broke it up into employee numbers. By way of background, it’s worth recalling that three quarters of all businesses in this province have fewer than five employees, so they’re not large enterprises. The current performance for that size of business would actually have an expected injury frequency of one lost-time injury every 10 years. If we were to look for the next big breakthrough and try to get another 50% drop in accident frequency, we’d be talking about a performance level that would be one lost-time injury every 20 years. Of course, in a bigger firm it’s far more predictable than that. You can see the feedback cycle. I’m turning to the next slide now. But for small business, the notion of reducing the frequency of a one-every-10-years event: You’re asking individual firms to try various strategies, but really the feedback cycle is too long.

Nevertheless, we think that small firms need job-specific information about safety conditions and practices necessary to achieve the breakthrough. They probably don’t need a whole lot of general training like the certification training for safety reps and so forth. It’s quite general; it’s not job-specific, helpful information that would help them eliminate hazards and deal with their workplaces.

We also think that the job-specific information they’re provided with, because they’re making an investment that may pay off only in the next 10 years, has to be proven with highly scientific research. I don’t think anyone has actually proven that having a company policy and program actually improves the safety performance of small firms. It’s a big part of the regulatory requirement, but does it actually improve performance? What does? We also don’t think that advertising campaigns do. They need information on what the hazards are and how to

correct them because the people they work with, shoulder to shoulder, and their own families and so forth don’t want to be exposed to those either.

What small firms don’t need are thousands of uncoordinated employees working for different agencies that employer premiums pay for that actually offer little or no meaningful help to small businesses. They also don’t need punitive approaches like the Last Chance or High Risk initiative or the Workwell program. The Workwell program: There’s correspondence in your kits—we wrote about it at the time—that suggests that over a 10-year period, they touched 2,860 firms out of over 300,000 firms in the province. They touched very few firms. They essentially are seen as an organization that is marauding around, attempting to find and penalize employers without actually helping them. Small businesses need help; they need job-specific, firm-centred help, not a whole lot of agencies.

1420

We can just quickly go to the recommendations. On the financial front, we would argue that the WSIB needs to be placed on a more solid footing and that the government should direct the WSIB to adopt a multi-year plan to reduce average premium rates starting in 2007-08. The analysis of the WSIB’s own actuaries cast a lot of doubt about whether last year’s 3% increase was actually needed. I was distressed to hear the chair this morning talk about either extending the unfunded liability date again or—it’s just disturbing, because when that plan was set up, and we were there for the establishment of the 30-year plan to 2014, employers took three years of 15% increases. Then they accepted three years of 10% increases to actually deal with the unfunded liability and put workers’ benefits on a secure footing for the future. The role the WSIB had to play was to live up to that plan, and it is distressing to see that after coming through with another increase last year, they’re now talking about sliding the deadline a little bit. We certainly don’t want to see any more increases. In fact, we don’t think last year’s was warranted. There also should be no need to ease the 2014 date.

A number of recommendations here deal with making public that plan, also dealing with flaws within the legislation, where the costs are coming in a whole lot larger than was estimated. Those should be matters of study and scrutiny and release that information. There doesn’t seem to be any real analysis being done that’s brought forward to groups like ours and others that would look at that and advise.

We think they need to deal with cheating in the system by implementing a named insured system rather than continually trying to enlarge their monopoly system. We think they need to follow through on encouraging acknowledgement of small business needs in early and safe return to work by working with small business organizations to develop workable policies.

Finally, on the health and safety front, we think the Ontario government and its agencies involved in workplace health and safety—and there are many of them—

have to make compliance assistance to small firms the centrepiece of the action plan. There really needs to be a forum to bring all those groups together and figure this out because there are just too many initiatives going on. They need to take a fresh and comprehensive look at how we're running health and safety in order to better serve the sector that is the majority in terms of numbers and jobs in the province.

Satinder and I would be pleased to try to answer your questions.

The Chair: We have a very brief time left to have those questions posed. We'll start with the NDP, and I would ask you to be brief. We've got about two minutes each.

Ms. Horwath: Okay. My first question is on page 11 of your slide presentation. The second chart you have there indicates a number of different sizes of firms. Could you tell me, when you surveyed your firms of between 25 and 100 employees, how many of them have joint health and safety committees operating with a certified employee rep on them?

Ms. Andrew: We haven't done that. There is a health and safety study, but it talks more about what information they need, how they need to receive it and so forth. We're aware that that's a legal requirement. That's information we convey to our members. I'm assuming they would have it.

Ms. Horwath: I ask you because I think it's interesting to see that there were a couple of significant areas where both you and the representative from the Ontario Federation of Labour agreed, which is on the reduction of injuries. In fact, even the chair agreed with that earlier today, as well as the fact that investing in advertising really isn't the way to get there. So it probably would be useful and helpful to get an understanding of what percentage of your member organizations actually have a functioning joint health and safety committee with trained staff, because it seems to me that's one of the things that's been identified as a way to begin the process of reducing injuries on the job.

Ms. Andrew: Actually, our point was that it's not clear that having a policy and a program and committees is necessarily the way to reduce injuries on the job, or it may be the way in certain sizes of companies but not others. Most of these regulatory initiatives that are heavy in cost and aggravation and difficult to enforce have really never been proven to be the things that actually work to reduce injuries.

Our contention is that small firms need job-specific information that can actually, in a very practical way, help them eliminate accidents in the workplace. They don't need a whole bunch of paperwork or a binder or somebody, the inspector. Although there have been many more inspectors and so forth, there's no hope of those people ever getting around to the 300,000 firms in the province. So the people they do manage to get to, they're winning the lottery for losers, really. They're being touched, and the law can't be enforced even-handedly. What you need to do is have a bunch of positive, helpful

measures that people will take up on their own, because you'd never be able to have an enforcement approach that actually worked, that you could get to everybody and enforce it even-handedly.

The Chair: Thank you very much. We'll move on to Mr. Duguid.

Mr. Duguid: Welcome. I don't think too many committees go by that we don't have your input, so I want to thank you for the effort you make to make sure that our small businesses' voice is heard here at Queen's Park. It truly is an effective effort. I don't know if your members are aware of all the work that you do, but if they were, I'm sure they'd be quite happy with the services you provide for them.

I'll keep my question as brief as I can. There are a couple of programs—the safe communities incentive program and the safety group program—that provide participating members with financial incentives for improved health and safety performance. It's difficult to communicate, in particular with small businesses, on almost anything like this because they're busy people, busy organizations. Is there anything that you're doing to try to encourage your members to be part of these programs?

Ms. Andrew: Actually, we do. We have a partnership with the WSIB. Whenever a safe community is either organizing a new group or having a new initiative, we work with them. We actually fax or e-mail our members in the vicinity of that safety group and they tell us that that gets all kinds of additional sign-ups for the group, so they're very appreciative of that. We do that at our own expense. We also circulate all kinds of safety information and try to put people in touch with various things. We don't sponsor our own group, though, if that's your questions. And thank you for your kind comments earlier.

Mr. Duguid: Do I have a few minutes?

The Chair: No. We'll move on. Thank you very much.

Ms. Scott: Thank you very much for appearing before us today and for all the work that you do and for continuing to give information not only to us but to the small businesses that you represent. A lot of the points you hit on I certainly hear in my home riding: about the regulatory burdens, what am I getting for it, it's too much of a cookie-cutter approach. You're asking for the employers to really participate to do their own management of safe workplaces, whatever environment they may be in. How could they work with WSIB so that they see that small businesses are taking the initiative to be informed of what their employees might be at risk of, the occupational hazards, and then proving, almost, to WSIB that they are following up with initiatives that affect their specific business? You've mentioned some education that you do, but is there anything more specific, maybe? I don't know if I'm asking too micro a question, in a way.

Ms. Andrew: I don't think the WSIB would actually want to hear from all of our members. They're happy to have them send premiums in on an annual basis, but other than that—a small firm might only have one

accident maybe every nine years, or something like that, and they are novices in dealing with the whole accident reporting and return to work and all of that sort of stuff. So for that part, they work with the Office of the Employer Adviser, typically, if they need that kind of help, but most of the time small firms are friends and colleagues with their employees. If someone has an injury, that's really a disaster. They do their best to avoid it. They would appreciate some job-specific practical advice on how to avoid it. But when it happens, they badly need that person. The shortage of qualified labour in this province is a big issue. I don't know if you saw that yesterday we released a study dealing with the apprenticeship system. Again, it's a very pressing issue now and for the future to have your valued employees healthy and safe and on the job. The notion of proving anything like that to the WSIB is not something they want to go for.

The Chair: Thank you very much for coming today. We really appreciate your comments based on our presentation this morning and we appreciate you coming.

Ms. Andrew: Thank you very much.

INDUSTRIAL ACCIDENT PREVENTION ASSOCIATION

The Chair: I'd like now to call on the Industrial Accident Prevention Association, represented by its president, Maureen Shaw. Welcome and thank you for coming here today. As you know, you have 30 minutes, and whatever time you leave will be divided amongst the three parties.

1430

Ms. Maureen Shaw: I thank you very much, and I do thank you for the opportunity to be here today. IAPA is an organization that is a significant stakeholder in the entire system. We have been a partner with the WSIB, with workers and with employers in this province for now 90 years.

I would also like to say, just to justify my existence, if you like, that I've been in the business of prevention on a personal level for over 25 years. And if I need further justification, I am also the mother of a critically injured young worker who is an amputee, who was injured in a workplace explosion in British Columbia—that, in spite of the fact that I've been in this business for many, many years. So I have a number of reasons for considering myself and my organization a significant stakeholder within the entire system.

I'm going to start with a quote: "To prevent accidents is vastly better than to compensate them." Now, you might think that that quote was contributed by the leaders of the current WSIB system; in fact, it wasn't. It was attributed to Samuel Price, who was the very first chair of the Workmen's Compensation Board. Both the WSIB and the IAPA have prevention as our primary focus; for IAPA, for 90 years it's been our *raison d'être*. Given the fact that we share this focus, our two organizations have an extremely long history of working together to prevent

injuries, death and disease from occurring in our province and in our workplaces. We have a willingness to challenge each other on a number of questions. That doesn't always make it comfortable, but we are committed to working together and committed to ensuring that the debate and the differences of opinion that we might have work toward finding common ground.

Many of the people that I've heard speak—and I unfortunately wasn't able to be here this morning—have sort of shared the vision of an injury-free Ontario and also seem to agree with IAPA's vision of a world where risks are controlled because everyone believes that suffering and loss are morally, socially and economically unacceptable. So I was very pleased to accept this invitation to present to you today. Through the course of my presentation we'll have seven suggestions for enhancing the relationship between the WSIB and IAPA. While I don't speak on behalf of my colleagues in the other safety associations, I do have a sense that if we had them here, there would be significant consensus with some of the recommendations that I'm making.

First, let me just give you a little, brief outline of who we are. I've already said that we're 90-years-old young this year. We represent 50,000 employers in the province of Ontario and 1.5 million workers who are employees of these 50,000 companies. We're a not-for-profit corporation. We are a stand-alone corporation governed by a performance-based board of directors, which also has representation by two senior members of the WSIB and a number of industry folks, as well as a couple of lawyers and a marketing person.

We were created in 1914, at the same time that the Workmen's Compensation Act was being proclaimed. We were created by the Canadian Manufacturers' Association. It was very interesting: As we were going back and looking at our history, we found that the very first objectives of the association were, firstly, to promote injury and illness prevention, to mediate between employers and the board on assessment rates and other dealings, to provide oversight to the officers of the WCB and to conduct workplace inspections. So at one time, we did it all; now we have a very effective three-peg system. Our inspectors in those days had no powers of enforcement. They would call in the labour department if they needed some assistance.

Some of our first acts were to convene a meeting of 250 business leaders from across the province. As I'm looking again at the historical data, it says that "their meeting marked a milestone in the history of Canadian safety legislation, education and practice." Ladies and gentlemen, I'm very proud to say that in the 90 years since 1917, IAPA has continued to be a concept leader in Ontario and elsewhere in the world.

In the 1940s, for example, IAPA represented Canada at International Labour Organization meetings. The ILO was beginning to form, and we took a leadership role in creating the ILO's model safety code for industrial establishments. Our work with the ILO continues. We are a designated collaborating centre of the ILO, facilitating

knowledge transfer and exchanges between organizations around the world, and I chair that committee. IAPA has also become a WHO—World Health Organization—collaborating centre for workplace injury and illness prevention, the first centre with this focus and this title. So here we are now. At home, we had been involved in creating a safety committee 20 years prior to their becoming law in 1978.

I played an active role, along with my system partners, in the creation of OHSCO, the Occupational Health and Safety Council of Ontario, which brings together all of the members within the safety prevention business, along with the Ministry of Labour and the WSIB. We need to be all together and working in harmony.

We have come full circle since 1917, and we're about to embark, in April, on our 90th conference, which will have over 6,000 delegates coming to Toronto and 400 exhibit booths. You're all welcome to come for the opening and see that, just to get an idea of the magnitude of the business of prevention and the linkages and co-operation amongst all of its partners. We also will have a leadership forum where chief executive officers will come together to talk about the integration of health and safety as part of their overall corporate and social responsibility strategies. As the conference wraps up, I'm very proud to say that the IAPA is partnering with the Ministry of Labour and the ILO to host the first International Association of Labour Inspection conference ever to be held in North America.

We have come a long way to get to where we are today. Today is a time when we're looking to see where we need to go in the future, and to do that, we need to look at some statistics and have some sense of where we are.

We have seen some very drastic reductions in injury frequencies, as has already been stated by a number of people. We find with IAPA that when we have an interaction with an organization, whether it be a training interaction, a consultation or a combination, we see significant reductions. In my paper, you will see some of those numbers, but they range from 13.3% reduction to 17%. Those who had no interaction with us experience a 1.7% reduction, so I think that certainly speaks to the value for the dollars we spend and the resources we provide to our membership.

We have had the opportunity to work with the Ministry of Labour and the WSIB on the Last Chance/High Risk initiative, which is a customer contact program that is targeting the worst performers in the province of Ontario. Again, by working collaboratively and focusing on organizations that need our help, we're finding that we're seeing significant results and dramatic drops in injury frequency.

One of the other programs that's been talked about a couple of times here this afternoon is the safety group program. IAPA very much supports this and thinks it's one of the most enlightened programs that the WSIB has supported and assisted us in putting in place for the last 12 years, since I have been with IAPA. As a safety group

sponsor, we bring together firms, we facilitate exchanges of expertise and ideas, and supply additional one-on-one assistance as is needed. We're finding as well that our member firms, as we survey them, also tell us that their overall satisfaction with IAPA services—our last survey was 4.1 out of 5. Furthermore, they would continue to work with us. So I think we're beginning to more than justify our existence.

In the last few years, I've been working with three of my safety association partners, and the four of us have come together to create the Centre for Health and Safety Innovation, which is located in Mississauga. It's a physical plant and it is a virtual plant. It is a place for coming together and sharing knowledge, learning and innovation. It is also enabling us, the four organizations, to share some backroom services, reduce our overhead and maximize our resources. It is creating a window on the world.

For most of our lifetime at IAPA, we have been 100% funded by the WSIB. We now, as we hit 2007, find that 35% of our annual budget comes from revenue sources other than the WSIB. We continually seek out new opportunities. We've had many successful joint initiatives with organizations such as the Canadian Standards Association, the IRSST in Quebec, the WCB in British Columbia and many, many others, not to mention my colleagues from the CME and other organizations here in the province.

1440

We continue to work on improving our own internal effectiveness, and recently we received the ISO 9001:2000 certification for our training design and the delivery of our training materials—the first health and safety association, I might add, to receive that designation. We also were the first not-for-profit in Canada to earn a progressive excellence program level 3 certification for quality, and a bronze award for business quality by the Canada Awards for Excellence of the National Quality Institute of Canada. These are firsts.

To place us, the safety association, in the context of the Ontario system, we are a designated entity by the WSIB. We operate as one of the health and safety system's three pillars of prevention, and I would really clearly say that there is no way we could achieve the gains that we are achieving and continue to move forward toward that ultimate goal of elimination of all injuries, death and disease without the system that we currently have. Can the system be better? Absolutely it can be better. But it must continue to exist. The Ontario model, I can share with you, is a model that has received great interest around the world, and I always represent it when I'm doing presentations in other parts of the globe.

The WSIB's historic responsibility for Ontario's safety associations underwent a review in 1997, when the current Workplace Safety and Insurance Act was created. I'm going to make a recommendation here today. It's now 10 years since the WSIB act came into force; it was actually January 1, 1998, that it was enacted, but it's been 10 years since its creation. I think it's time that we sort of

stopped, took a deep breath and did a little check-in and looked at our scorecard to see just how well we are performing with each other. I think it's very much time to do that. The world, in over 10 years, has certainly changed a lot, and so we want to make sure we still are doing the things we should be doing within the context of the act. The need for clarity about roles and responsibilities needs to be really discussed within that context, and we will have the benefit of eliminating confusion and duplication and of improving the relationships within the system.

For example, the recent social marketing campaign that the WSIB ran, or is running, was a very powerful piece, and nothing has ever been like it, certainly in Ontario. It sends this universal message, but we could really have done it better if the safety associations had been involved from the very beginning of the concept design so that we were integrating this and were leveraging the opportunity that this campaign took. So not to eliminate the campaign, but let's work better together toward ensuring that we're making the best use of all the resources we've got.

We need to do a better job of improving our communication. That builds on my first suggestion, and it takes two forms. It is strategic, because it involves getting together and advising us of new initiatives earlier so that we can be better prepared, and that will certainly have a long-lasting impact. The second is tactical. We need to ensure that the board has a very clear understanding of what IAPA does—that's the board and their staff—and the value of the relationship. Improved communications will only make us all perform much better than we currently do.

We need to ensure that the board is making our member firms, those of our customers and their customers, aware of us and our expertise and that there are referrals being made through the various processes that we have. An example I might have is again going back to the tracking protocol for the Last Chance initiative, that initiative that targets Ontario's worst firms. We needed to ensure that we did a better job of communicating between the field staff of the WSIB and the IAPA staff, and I'm sure that applies to other organizations in the system as well. There needs to be significant improvement there.

I also want you to know that there's a lot of very, very positive things happening in the field between our two staffs. I see a colleague here from Thunder Bay and I remember meeting him when I was in Thunder Bay. In the north in particular, our staffs work very, very closely together. I'm constantly struck by the level of commitment and dedication to working together toward that ultimate goal.

We have a number of WSIB staff whom we have trained, who we have ensured are safe to be working with vulnerable young people in our young worker awareness program. It's a program that was developed by the Ontario Workers Health and Safety Centre and IAPA, with funding from the previous government. It's now

overseen by the WSIB, but we still deliver it, solely with volunteers, to about 25,000 students across the province a year.

We need to update the WSIB's oversight process. Again, under the changes that took place in 1997, the board established performance-oriented standards respecting our governance, objectives and functions in the operations of all the organizations that it funds. However, the oversight process can get pretty darn complex. If we could get a handle around streamlining that, I think that would really help to free up resources on both sides.

I'll give you an example—and I'm going to skip through just a little bit here. When we are developing our annual business plan, for example, we have to do two. We do one, the operational plan that our board of directors approves and which our organization—the staff and the management of IAPA—must follow through on, and we have to do another one that is pretty prescriptive and transaction-based. That goes on a template that's sent to us from the board back to the board, so we're doing it twice. We must be able to figure out ways to satisfy the responsibility the WSIB has and the responsibilities that we have.

We need to introduce some performance incentives and remove clawbacks. If we have a particularly successful year financially—remembering that we generate 35% of our own revenue—we would prefer to reinvest that revenue in the future.

We need to implement a funding formula. Currently, funding levels are determined year by year. Implementing a formula would remove some of the guesswork out of funding levels and allow us to plan for some level of stability.

I want you to also be aware that Jill Hutcheon, the president and CEO of the WSIB, has already struck a committee that is working on these very issues, but I thought that it was very useful to make sure it stays on our agenda. We expect that these discussions will have a positive impact on the system as a whole.

You've heard it before: We need to improve the quality of the data that we receive from the WSIB. We truly need to have data that is much more prevention-focused than focused on compensation.

One of the things I might say is that while the current form 7 does offer some space to provide more information about what happened in a particular incident, the space is really limited and the form has to be in within three days. People tell us that they haven't even finished their investigation of what happened and they have to have the form in. So we need to be able to figure out how we can get that information and yet certainly ensure that no benefits are held up because people are dragging their feet on getting their forms done.

We need more precise contact information. I have 50,000 member firms and we have very poor data on who the heads of these firms are and where they're located. We can improve, using some of our own systems, but that's very slow and tedious, and I think we could find a more effective way of doing that.

We need to have the WSIB take a lead role on higher-level environmental scanning, broader environmental scanning that will help us to adapt to the new realities that are taking place in the province and in the country.

We need to continue to support initiatives by applying the strengths of the entire system, such as the Last Chance and safety group initiatives. We need to see it within what I call a systems perspective, that we have the Last Chance firms, which we are graduating into safety groups, which will get graduated into the accreditation program once it's completed. There is no one cookie cutter here and there is no one strategy that is going to lead us toward the successes that we want.

1450

We need to have the WSIB, if we're going to be shifting direction in mid-year and if we have some new initiatives that we feel we need to undertake, to provide some start-up funding to assist in starting new initiatives such as the early and safe return to work. That's going to require resources that are not currently in the system.

Just to summarize:

- review and clarify the roles of the board's prevention division and the designated providers of education, training and consulting;

- improve communications between each other;

- update the WSIB's oversight processes;

- improve the quality of data;

- broaden the scope of the board's environmental scanning;

- continue creating and supporting initiatives that apply the strengths and the attributes of system partners to common issues; and

- provide start-up funding for new system-wide initiatives.

I would conclude by saying that we do have a good relationship with the board, and I'm not saying that just because we receive funding from them. We work hard at it and there have been times of disagreement, but we've always been able to work them through for the benefit of our shared goals.

I would like to say that if we're ever to be successful in this quest that we share to eliminate death, disease and injuries in our workplace and to reduce those re-injuries, we must be working as multi-pronged strategic bodies with strong relationships built on a commitment to shared purpose and vision. Returning injured workers to workplaces that are healthier and safer must be a clear goal, along with preventing the injuries from occurring in the first place.

To quote Henry Ford, "Coming together is a beginning, staying together is progress, and working together is success."

I thank you very much for this time.

The Chair: Thank you very much. We have a very brief moment for each caucus, and we'll begin with Mr. Milloy. You have about two minutes.

Mr. Milloy: I'll be very quick. Thank you for your presentation. You spoke about the IAPA's involvement with international organizations on the international

scene. I'm just curious: What's the WSIB's reputation in the international community that looks at these safety issues?

Ms. Shaw: I can tell you that the occupational health and safety council in Hong Kong, which mirrored the system here, has been very interested and in fact has come to Toronto to review our NIDMAR system, which is the system that the WSIB uses for return-to-work. So we have a very high reputation even though we have a long way to go. WSIB has a high reputation there. WSIB also has a high reputation just being part of the multi-pronged system that we have. Compensation systems don't generally have high reputations internationally; it's usually the people who are doing the prevention. But I can assure you that we always are ensuring that they get the credit they deserve for the work that they're leading.

The Chair: Is that it?

Mr. Milloy: I'm probably out of time, am I?

The Chair: Do you have a quick question?

Mr. Milloy: No. I probably have about 30 seconds.

The Chair: Okay. We'll turn, then, to Ms. Scott.

Ms. Scott: Thank you for your thorough report to the committee, and happy 90th anniversary coming up. That's good.

Ms. Shaw: Thank you.

Ms. Scott: We only have time for one quick question. When you said you'd like to reinvest—is it 35% revenue? I just wondered if you wanted to expand a little bit more on that.

Ms. Shaw: I guess the expansion would be that if we have a surplus at the end of the year, there is a process by which we have to get permission to use it. We would very much like to be able to say that if we've done a good job managing our dollars, like one would do in the private sector, we need to be able to reinvest those dollars in future projects. Sometimes that may mean putting it aside into a separate pot for larger projects that we might want to take on in the future. We really want to be in control of our destiny. It's only the right thing to do.

Ms. Scott: So no top ask at the moment, just if it's—

Ms. Shaw: We're not asking for any more money and we have not asked for any more money.

Ms. Scott: Okay. Thank you for appearing here before us.

The Chair: Ms. Horwath.

Ms. Horwath: Considering the organization's close relationship with the WSIB, I'm wondering if you can tell me the extent to which your 50,000 member firms that you refer to have operating joint health and safety committees with certified worker reps on them.

Ms. Shaw: I couldn't tell you how many of those 50,000, but I can tell you that IAPA has three certification training programs. That is our biggest program that we deliver. We deliver it to more organizations than anything else.

Ms. Horwath: How many on an annual basis would you say get certification?

Ms. Shaw: About 20,000 people get certification on an annual basis. I'd have to go back to our annual report

to look at the numbers to be absolutely accurate, but it's about that.

Ms. Horwath: Would you say, then, that the vast majority of your 50,000 member firms would be operating with effective joint health and safety committees, with certified members on them?

Ms. Shaw: I would hope that to be the case, but I'm not going to go out on a limb and say it is the case. I couldn't speak on behalf of them.

Ms. Horwath: Have you ever thought that that might be a good way to kind of gauge the effectiveness of these kinds of proactive opportunities?

Ms. Shaw: Absolutely. Surveying that many organizations, though, is something again that might be a good thing for us to do in partnership with the WSIB, because they're the ones who actually do the certification; we conduct the training. So the data must be there. We should be able to mine those data and I'll certainly take that as something that we will have a conversation about.

Ms. Horwath: That would be great, because it seems to me that many people are saying the same things around how we get to that zero injury rate. It seems to me that, as a partner, as almost an appendage of the WSIB in that regard, you probably have an important role to play in that effort.

Ms. Shaw: Thank you for that. We will definitely take that back.

The Chair: Thank you very much for coming before us today. We appreciate your comments.

LES LIVERSIDGE

The Chair: We would now like to ask Mr. Liversidge to come forward. Good afternoon and welcome to the committee. As you know, there are 30 minutes available. It's your choice how long your presentation is, and whatever time remains we will give to the three caucuses.

Mr. Les Liversidge: Thank you very much. Hopefully, this presentation should be about 11 or 12 minutes, to leave plenty of time for questions.

My name is Les Liversidge. I have been active in the Ontario workplace safety and insurance or workers' compensation system for over 33 years in one capacity or another, from board employee, independent consultant and now lawyer with a practice focused on workplace safety and insurance matters. With me is Ms. Odelia Gudge, an associate lawyer with my firm, who represents a new generation of legal activism in this field, and I might say, not a moment too soon either.

Over my career, I've been witness to a remarkable evolution in this law, the law of workers' compensation. In the way the Workplace Safety and Insurance Board, or Workers' Compensation Board, operates and in the expectations of the public, by any measure the workplace safety and insurance system of 2007 is infinitely superior to the system of 30 years ago. But it is still less than it can be. Make no mistake: It has always been the public's expectations that have driven reform. Dissatisfaction eventually boiling over into discontent ultimately ac-

quires a political potency which explodes into action. Over the last 30 years, the board itself has rarely led change absent external pressure. Reform has flowed from influences external to the WSIB. This was true in 1985 and 1990, when decades of worker injustice eventually, and rightly, bubbled over into political action, which resulted in a fairer system more responsive to the needs of injured workers. This remained true in the mid-1990s, when the financial viability of the system was a real concern. The objects of the board were made clearer and a focus towards accident prevention and return to work was emphasized, a prominence which continues today.

While we see a board superior to the board of 30 years past, many of the lessons of the past still remain unlearned. This afternoon, in the very few minutes available, I will focus on the evidence of this continuing phenomenon of a board that still does not always listen well to emerging criticisms and which does not always resolve budding problems. Rather than simply spouting off a litany of long-standing complaints, for every complaint I highlight here today I bring a serious and reasonable recommendation.

I want to touch on two prime themes: the business end of the board's business, and a better mechanism for ongoing reform and change.

But first I want to take a moment and comment on WSIB leadership. I listened very carefully to Mr. Mahoney this morning, and I've seen him active on this file in many years past. I continue to be very impressed with his innate capacity to understand and his passion for injury prevention and worker dignity. I have already seen first-hand the impact of his style: The board is responding. Like his immediate predecessor, Mr. Glen Wright, his dedication to injury prevention is inspiring. As far as leadership of the chair, the board is in excellent hands.

1500

But one question has always perplexed me: In an organization of over 4,000 people, active for over 90 years, that has its mandate prescribed in statute, that impacts most working Ontarians, why does the one position at the top determine pretty much everything? The answer to that question lends some insight into the strengths—the ability to implement change with a change in the chair—and the weaknesses—the inability of the board administration to respond to emerging issues—of the current WSIB.

The chair is able to set the tone, the style and the priorities of the organization, but realistically, the reach is limited to the big overarching issues. It is the other 4,000 people who have to put everything in motion. But all too often, the smaller problems simply do not get addressed until they ferment long enough and become big problems. It doesn't have to be this way.

Right now, the board is administratively weak with what I call the business end of the board's business. The big issues—the premium rates and the funding strategies—rightly acquire priority, but it is the implementation of employer tax policy that impacts smaller

businesses the most and it is in this arena that the board performs poorly.

In materials that I have placed before you, I have detailed six examples of real experiences with the WSIB's taxation and employer audit functions. It's in tab 1 of the materials. I have more. These are not oddball, off-the-wall examples of obscure WSIB mistakes that are easily corrected once brought to the attention of the appropriate officials. These are blatant examples of a deep-rooted problem. In even those cases which were eventually corrected, the obstacles and intransigence against obtaining a fair result were almost insurmountable.

Senior WSIB officials just do not have a hearing ear to the root cause of these problems, preferring instead to treat each one as if it was an unfortunate but isolated misstep. If only this was the case. A more credible thesis is that these problems are reflective of a more systemic problem. To be frank, when dealing with the day-to-day taxation of smaller business, the board sometimes is a bit of a bully.

Last year, I recommended an operational review of the WSIB audit department. I still recommend it. I understand the reticence to accept the broad scope of my thesis; I fully appreciate this. A constraining skepticism is not necessarily undesired. My allegations, though, are particularly pointed when assessed against the backdrop of published WSIB fairness declarations. The pledge in these documents is so far off the scope of what is actually occurring on a day-to-day basis, I would, if I were an uninformed observer, be equally skeptical. My suggestion of a high-level review was rejected, although I have not given up that plea.

The fundamental question that must be asked, though, is this: Do the circumstances, which I've set out in those example cases, have any reasonable or plausible explanation other than the thesis which I am advancing? Objectively assessed, the answer to that question must be a categorical no.

These examples are not simply a few isolated problems. They are archetypical examples of a deep-seated and entrenched manner of doing business that runs counter to the publicly declared values of the Ontario WSIB, to the governing principles set out in the Workplace Safety and Insurance Act, and basic principles of fairness and administrative justice. In short, these cases are not themselves the problem; they are reflective of the problem.

While the process of setting employer tax rates is generally fair, how tax classifications are applied to individual cases often is not. It is sufficient to note that the board has developed a very complex system of taxation that mirrors the diversity of Ontario business. Simplicity is simply not possible. Common sense and reasonable application, though, is essential. Often, it is elusive.

The board is very adept at placing the round peg in the round hole, which is the majority of cases, but it breaks down when it tries to force the square peg. But, try it does.

I can beleaguer this committee with endless examples, but this problem perhaps is best illustrated in a letter addressed to the committee by Mr. Les Mandelbaum, president of Umbra Ltd., a Canadian business success story, which has already been the subject of discussion in this committee. I have also included a copy of it in tab 5 in the materials.

To make a very long story short, this company was unfairly assessed, was convinced the board simply made a mistake, but was taken aback when efforts at senior-level communication over a period of several years were ineffective and just passed down the line. When this came up for discussion—I don't want to embarrass anybody or point any fingers at WSIB—there were ample opportunities for the board to have corrected this problem before it came to the point of the president of this Canadian business success story writing to this committee.

Incorrect WSIB classification decisions are not benign. They do more than affect corporate profits; as in this case, they affect jobs. As was suggested earlier this morning, we're not talking about affecting 200 jobs with this company, and the company didn't move all of its manufacturing off the continent because of workers' compensation premium rates. We're talking about five to 10 jobs that likely may be lost.

Until recently, the board really was—I can't describe it any other way—washing its hands of this problem. As came out in the earlier discussion and through the points that were noted in the letter earlier, Mr. Mahoney directly became aware of this through this particular company bringing this matter to his attention, and the board is now, quite rightly, reconsidering its approach. But, however, for the tenacity of this company and the intervention of Mr. Mahoney, the result would have been different. Canadian jobs would have been lost.

This is not an example of the system ultimately working. The system would be working if senior board officials listened in the first place and applied a common-sense approach to problem solving and realized that unique situations require unique solutions. The problem and solution are no more complex than that: reasonable discretion reasonably applied. Instead, in these types of cases, board officials tangle employers up in red tape and strangle them with rules designed for very different situations.

Of late, the board has been eager to promote a joint initiative between the WSIB and the Canada Revenue Agency, CRA, to ensure increased employer compliance, and nobody can quarrel with that objective. Employers who do not pay their premiums should be found out and duly assessed. While this initiative ought to continue unabated, the board in my view foolishly abandoned a program called the voluntary registration program, which allowed for fairer treatment of non-compliant employers who voluntarily come forward.

As a result, and as I explained in a recent senior communication to the board, "those employers that voluntarily come forward and those that wait to be found out are treated exactly the same way." This is, quite frankly,

ridiculous. Employers who voluntarily come forward should be treated better than those who wait to be found out. That's not just simple justice, although it is; that is also prudent WSIB administration.

While the board seems to be modelling the taxation end of its business after the CRA, and we've seen one example of that—I've given you the example of the CRA's fairness pledge in tab 8, and you'll see that it's pretty much identical to the board's fairness pledge in tab 3. But within the context of fair process, though, the CRA and the WSIB distinguish themselves in one determinative element: The CRA withholds collection while a taxpayer is appealing a CRA ruling, but the board demands payment up front, and this difference is a powerful one. It means that unfair and incorrect WSIB tax rulings, many retroactive in force, even if later found to be unjust and incorrect, could well force an Ontario business to the brink of insolvency. Changing this one heavy-handed practice will go a long way to restoring fairness to the WSIB taxation scheme, as it would allow time for incorrect taxation rulings to be put right without undermining the ability of a company to continue to do business.

So much for the critiques; now a few, easy-to-implement solutions:

(1) The WSIB board of directors should conduct a high-level review into the business end of its business, its audit and collection functions. Leadership, change and a new way is, in my respectful view, required.

(2) Senior board officials should become more directly engaged in issues brought to their attention and not just too quickly pass them down the line. Just sometimes the complainant might be right and just sometimes the board might be wrong.

(3) The board should immediately restore the voluntary registration program.

(4) The board should follow the CRA lead and suspend collection activity while an assessment is being actively appealed.

I'd like to take just one or two minutes and look at this problem from a larger perspective, the longer-term picture of workplace safety and insurance reform. At its core, although it's called the workplace safety insurance system, this program is not really an insurance contract; it is really, at its heart, a social contract between capital and labour, and insurance is a tool that really promotes that contract. But essential to this contract is a continued requirement and a continued perception of system fairness for both groups, management and labour. If three decades of workplace safety and insurance reform has established two constant truths, they are these: (1) The loss of confidence of a core constituency will spark a petition for reform, and (2) the board is unable, in the long term, to maintain constituent confidence, so reform is inevitable. But it's neither smooth nor incremental; it is often divisive and tumultuous. Change is massive or non-existent; it's feast or famine.

There's a better way. A conduit for incremental change is required, and I propose a routine five-year

large-scale external review reporting directly to the Ontario Legislature. This would allow for a perpetual opportunity to address statutory and administrative shortcomings. This simple innovation ensures that WSIB reform becomes routine, less partisan, and considered absent a crisis of confidence, while still ensuring political oversight. This would enhance stakeholder participation and move the critic from detractor to partner.

With that, I'll just close the formal part of my remarks and open it up to whatever questions the committee may have.

1510

The Chair: Thank you very much. You have certainly left an opportunity for about five minutes. We're starting over here, with Mr. Martiniuk.

Mr. Martiniuk: Thank you very much for your presentation. I want to, however, deal with a topic that isn't included in this particular presentation. We've been discussing the experience factor—

Mr. Liversidge: Experience rating?

Mr. Martiniuk: Yes. I know that there are two types of incentives. First of all, you could have strict compliance, which means you need a lot more people to enforce the rules. You can, however, have negative and positive incentives, and I take it the experience rating is a negative. But I'd like you to discuss it philosophically, because, as I understand it, there has been a considerable decline in accident claims over the last 10 years. Is there any correlation between that decline and the various incentives that were in place and that may be changing?

Mr. Liversidge: That's an excellent question. I think that from an anecdotal standpoint, I could say yes, but what value is that? An opinion on my part, even based upon years of direct observation and experience, is really of little help and of little value. But actually, there is a study on this that was recently released by the Institute of Work and Health. It was provided to the Workplace Safety and Insurance Board a year or two ago. It resulted in several conclusions, one of which was that experience rating does drive both positive accident prevention activities on the part of Ontario business and positive early and safe return to work initiatives on the part of Ontario business. That question, I think, has been settled.

However, I think it's important to note that in the area of injury prevention, experience rating is but one tool in a larger arsenal of tools. You can't do it absent a regulatory framework; you can't do it absent a prosecutorial model; you can't do it absent certain expectations and guidelines. You can't even attempt to allow one tool, particularly experience rating, to do everything. It doesn't.

There has always been a worry about experience rating that when you start to hold employers to account for their actual performance, are they going to fudge the numbers? We heard that earlier today. Are they going to put cases under the table and not report them? That's why you have other mechanisms. If a company does do that—first of all, I'll explain two reasons why they ought not to do that; three, really. One is, it's just wrong. But it's also a crime. It's against the law; it's against the

Workplace Safety and Insurance Act. Whoever does it, that individual can face a fine of up to \$25,000 and up to six months' imprisonment, and the corporation could face a fine of up to \$100,000. So if somebody thinks they're going to save a few hundred dollars by doing that, they're mistaken. And the board, as Mr. Mahoney highlighted here this morning, takes that seriously and they do prosecute those cases. They prosecute a lot of those cases when they find them.

Who would do that? Who's the individual who would engage in that type of behaviour? The experience rating model is designed to focus in on the rational, informed business person who's going to respond in a self-interested manner to look after their self-interest. That's supposed to translate into positive employer behaviour. The study I made reference to earlier says it does just that. That means you're going to avoid an injury and you know there's going to be a reduction in premiums as a result. We all understand experience rating. If you are driving an automobile and you're accident-free, your premiums go down; if you have an accident, your premiums go up. It's the same principle. The arithmetic is a little bit more complicated, but the principle is identical.

If the self-interested business person says, "I'm going to skirt the system. I'm going to pay the worker under the table not to come into work and I'm not going to report that claim to the Workplace Safety Insurance Board, and somehow I'm making money," he's not. He's not only breaking the law and open for the prosecution that I've outlined earlier, but there's no financial gain in it at all. If you go through the numbers, there's absolutely proof that you aren't better off skirting your insurance program by directly self-insuring. It's absurd. It doesn't happen. I've shown these numbers in the past.

I don't dismiss the fact that a few outlier companies may be performing in this way, and they're either going to say, "I don't care what the rules are. I'm outside the rules"—eventually you catch those and you prosecute those companies—or they say, "Well, I have an inadequate understanding of this program. I think there's a relationship between me not reporting a claim and me being better off financially."

In those cases, if somebody thinks like that, then, sorry, I would point the finger back at the WSIB and I would say, "Why would an employer possibly think that?" because it simply isn't the case. There is no net gain, and one of the things that the board has not done well on experience rating—I think it is a very good program. I don't think it has tapped its potential. I don't think the current program is used to the extent that it ought to be used. I don't think that business, as a class, understands experience rating. I don't think individual employers understand it enough to do the one thing it's supposed to be able to do, and that is price a problem and price a solution.

It takes all the gobbledygook out of workers' compensation problems and promotes a business case for positive business intervention. That way, the middle manager, who often doesn't have a lot of corporate clout

in things like this and is often seen as somebody who is spending money instead of making money, can say, "Listen, we have an employee off on an injury. I have a program that I've costed out to be \$3,000 or \$4,000 in which, if we invest that in return to work, we will get a \$25,000 to \$30,000 return in premium reductions." So now that person transforms himself from being a person on the cost side of the ledger to a revenue producer, and therefore you now are tapping into the power of experience rating, not by doing things untoward. That's the other worry, that with experience rating you're going to get people back to work far too early. If the audience is—and it is—the self-interested, informed employer, that employer will realize that if you get somebody back to work too early, (1) they're not going to stay, and (2) there's a risk of re-injury and you end up with a more highly costly claim.

One of the problems with experience rating is not that it is abused; I don't think it is, although I'm sure you're going to find cases of abuse no matter what the program is. But it's not well understood. That I will give. It's not that well understood, and the reason it's not that well understood is that the board has not explained it all that well. I would challenge any board employee to be able to use their own programs in a business-decision-making way.

The Chair: Thank you very much. We'll move on to Ms. Horwath.

Ms. Horwath: Can you tell me, in your experience in this field, which seems to be quite significant, whether you attach any value or efficacy to the work of joint health and safety committees?

Mr. Liversidge: Oh, of course.

Ms. Horwath: Is it your understanding of the system that there are a large number of employers in the province of Ontario that are compliant with that part of the legislation, that requirement?

Mr. Liversidge: Yes. And it's important, because once you get a joint health and safety committee, you get all the prescribed expectations from that. But there's an awful lot of spinoff benefit from a joint health and safety committee as well. A joint health and safety committee can become a nucleus of a lot of positive change, even in areas that aren't necessarily directly within its prescribed mandate; for instance, things such as return-to-work issues. There's always a health and safety component to return to work, because nobody wants to bring a worker back to work and—from my experience, pretty much every injured worker wants to get back into the workplace at the earliest possible moment. Nobody wants them to get back to work and end up being worse off than before. You've got the needless personal suffering that that case would entail. So you have to craft return to work in a careful way to be always mindful, and that's why it's called, as Mr. Mahoney emphasized earlier today, "early and safe return to work."

1520

So you get a buy-in to those types of programs by the joint health and safety committee, and when you do that,

you get the dynamic of the two workplace partners to facilitate and to engage in better return-to-work practices. From my experience, that's generally where these types of programs commence: firms that maybe 15 or 20 years ago were in a neophyte stage in developing early and safe return-to-work programs. By the way, the Workplace Safety and Insurance Act did a catch-up and sort of codified these in the statute in 1998. This was really long-standing in Ontario workplaces by this point in time. The health and safety committees went a long way in assisting and nurturing and cultivating and developing a workplace culture of trying to ensure that that balance between early return to work and safe return to work is met. So I've seen tremendous benefits from joint health and safety committees, not only in the direct, prescribed expectations of the committees but also in many spinoff benefits.

Ms. Horwath: Thank you. Do I have time for a brief follow-up?

The Chair: Yes, you do.

Ms. Horwath: I'm just trying to figure out, though—there seems to be quite a discrepancy between what is required under the act in terms of the establishment and existence of joint health and safety committees and the requirement for a certified worker rep to be there, to be able to have all of the training and the knowledge and the information to do the job effectively, and the suggestion that perhaps some 30% to 50% of workplaces in Ontario don't actually have functioning joint health and safety committees with certified workers on them. Can you comment?

Mr. Liversidge: I don't know where that statistic comes from, if it's true or not true. I'll just take it at face value that it is true. Large, sophisticated employment environments are going to have joint health and safety committees. There's just no way that they're not going to have them. So if anywhere, it might be in the smaller enterprise and it might be the type of enterprise which you heard talk of today, the smaller business, less than three, four or five employees, where, more likely than not, with a less official, less doctrinated approach you get the same thing done—the same type of work is done, the same type of focus is done—but perhaps not in the same way.

For the smallest of employers, you solve problems a little bit differently. Return to work is one example. It's a little different. As you know, in the Workplace Safety and Insurance Act there are certain obligations for employers to do certain things. Small businesses of less than 20 are exempt from mandatory return-to-work, re-employment obligations, but they're not exempt from the requirement to co-operate and facilitate a return to employment. It's almost a redundancy, it's almost not necessary, because these types of things would be handled in the normal course through the type of employer-employee interaction in a small enterprise, for the reasons I think you heard from the CFIB a few moments ago.

The Chair: Thank you. We'll move on to Ms. Smith.

Ms. Monique M. Smith (Nipissing): Thank you for being here today. We appreciate you providing us with your input. Certainly you've got a lot of experience in this area.

I just wanted to follow up on some of the positive comments that you made about our chair, Mr. Mahoney. I know that in your e-letter in November—

Mr. Liversidge: You might run out of time here. I've got a lot of positive comments.

Ms. Smith: He's still here, so what I wanted to—

Mr. Liversidge: I know.

Ms. Smith: I notice that you said the WSI system in 2007 is infinitely superior to that of 30 years ago, and I think pretty much everyone—

Mr. Liversidge: I wish I could give him all the credit for that, but I can't.

Ms. Smith: I know. It's just the last couple of years. But I would like you, if you could, to perhaps just elaborate a little bit on the impact that you think he has had in the last year or so in that position and, because he's here and listening, what you think we could be doing in the future.

Mr. Liversidge: I would say this even if he wasn't here and if he wasn't listening. That's a very good question. I'll address that two-pronged question.

Let me just look at the office of the chair, first of all. The office of the chair of the Ontario Workplace Safety and Insurance Board is determinately important. I have equal and high regard for his immediate predecessor, Mr. Glen Wright, who I thought also did an outstanding job.

If you go back through the lines, there's not a single chairperson of the Ontario Workplace Safety and Insurance Board who has not come into that office dedicated to make things better for the injured workers of Ontario—not one; not a single one. Nobody has come in and said, "I want the system to be a mess when I leave." It's not the case at all. Everyone has come in rolling up their sleeves. They want to leave their mark. And I would say without exception that that has happened. That has absolutely happened.

So when you don't have that position, when it's absent—we saw actually two times when it was absent. This is not any negative commentary on the senior officials who are left to run it absent the position of the chair, but we saw it under the previous government when the chair went over to Hydro One for a 12-month period, and we saw it recently when there was a two-year gap of no chair, and quite frankly, the organization just doesn't run as well.

So it needs that leadership, that type of unique leadership that fortunately the Ontario Workplace Safety and Insurance Board and Workers' Compensation Board seem to have been always able to attract, with a sense of personal commitment to a certain vision—I don't think "vision" is too hokey a word. I think it is a vision—because without a vision, I don't think it is going to move forward an inch. I think, though, that it's the chair's position that is materially important and getting the right

type of individual who is able to meet, I think, the unique challenges.

Mr. Mahoney and his personal background on this—I was very pleased to see that appointment for several reasons, not least of which is that he was able to hit the ground running. He knew this file. He had experience on it. He understood it. He may have been away from it for a few years, but I've been in this for more years than—actually, I've said how many years, so it's too late.

Interjection: Thirty-three.

Mr. Liversidge: Thirty-three, unfortunately, yes—well, fortunately. But the big-picture issues don't materially change. Even with, however, a person of the high stature and quality you have in Mr. Mahoney, my respectful view is that that's not enough; the system is not necessarily going to move forward and advance as far as it can. And that's really what you're seeking: as far as it can. The reason it can't is that there has been no discussion. This dialogue has been pretty much absent in Ontario for a long time. What happens typically is that the Ontario workplace safety and insurance scheme—withstanding the excellent people at the WSIB, and they are; notwithstanding the excellent leadership that the board has been able to attract over the years, and it does—from time to time cracks up on the rocks. And it's not until it cracks up on the rocks that the spotlight comes down, you have a crisis, and the system then responds to the crisis. That's when the big-picture stuff comes to you. The file then attracts and acquires a political potency and you have a political problem. You have a political problem that appears today but really started about six or seven years previous and was simply allowed to bubble and ferment.

That's the weakness of this system, and that's the weakness of this system for over 30 years. When there is a massive reform, which there has been many times over my career, then there's not a, "Let's go back and tinker with that a little bit and see if we can improve upon that." That you have to get it right the first time and there's no second chance is absurd. That's why I've suggested some type of a quiet process. Workers' comp reform—let me just see; maybe there's not anybody here who can remember—has brought out, at one time, 5,000 people to the front lawn of this Legislature. In the late 1980s, worker discontent boiled over to such a ferocious anger that it brought out the single biggest demonstration that—in fact, there was a standing committee and it convened on the front lawn of the Legislature I think in 1988, or something like that. So there has to be a better mechanism, a mechanism to allow for input, for opportunity for a conversation to occur perpetually, always, so the conversation doesn't abate, so it's not just left.

1530

The board said today that they're not legislators. Well, they are legislators. The board is pretty powerful. The Workplace Safety and Insurance Act carves out the boundaries and then says to the board, "You figure out the details." The board has probably one of the broadest policy-prescribing powers of any agency of its type. On

the employer taxation side, it gets exclusive control of that. The act is silent on what employer premium rates are and it says to the board, "You design it. You figure it out. You set the taxes, and you collect the taxes."

I think that there is an opportunity to do things a little differently, a little more intelligently, so that you don't wait for the thing to blow up before you get engaged in it and you do it incrementally and you allow this conversation to occur forever, really, never to stop, because no matter how good you get, there's always going to be a little bit more you can do.

The Chair: On that note, I'd like to thank you very much for making your presentation here today.

INDUSTRIAL ACCIDENT VICTIMS' GROUP OF ONTARIO

The Chair: I'd like now to call on the Industrial Accident Victims' Group of Ontario and its representative, Dave Wilken.

Good afternoon and welcome to the committee. As you know from being here this afternoon, you have 30 minutes and the time is yours. Any time you leave will be divided amongst the three caucuses. Please begin.

Mr. Dave Wilken: Thank you for the opportunity to attend here. The Industrial Accident Victims' Group of Ontario is a community legal clinic that has been representing injured workers and survivors around the province for the last 30 years.

First of all, I'd like to thank the members of the committee for the kind words you had to say about legal clinics this morning and also to commend you for the nice words you said about the Office of the Worker Adviser, which is vital to injured workers around the province. In fact, when the CFIB was making its presentation, Barb Millitt, who was introduced to you earlier by Mr. Samuelson, ran up to me to make sure that I would tell you that what they had to say about funding for the Office of the Worker Adviser was wrong. It's really vital. In fact, I can tell you that the lack of funds, the understaffing, of the Office of the Worker Adviser, to legal clinics and for legal aid certificates for private lawyers has led to a new part of the practice at our clinic; namely, defending against lawsuits and pursuing lawsuits against a whole class of predatory consultants who prey on injured workers who've been denied their benefits and can't find reasonably priced or competent representation.

Now that those preliminaries are out of the way, I'd like to touch on the issue of occupational disease. In response to the asbestos crisis of the 1970s and 1980s, an independent panel was established in this province to review scientific evidence and make policy recommendations about occupational disease. That was the result of inaction over the course of decades by the board that boiled up into a crisis that led to a royal commission, a review of the occupational disease issue by Professor Weiler and its own demonstrations. The Industrial Disease Standards Panel and later the Occupational Disease Panel that resulted, over the decade it existed, issued

over 20 reports on various diseases—all but two, I think, on a consensus basis, a consensus of worker, employer and scientific members—that were forwarded to the board for action. Only a handful were acted on. They fell into a black hole once they reached the board.

In 1997, the Occupational Disease Panel was abolished over the objections not only of the worker community but of the scientific community around the world. The reasoning given was that this would end the policy-making deadlock and it would also reduce inefficiencies that came about from having two different bodies looking at occupational diseases.

The result, over the last 10 years, has been that, between 1997 and 1999, apparently, people were waiting for Barb and Jean and other survivors from Sarnia to come and occupy the offices of the Ministry of Labour. This led, two years after that, to the creation of an occupational disease advisory panel at the board, which, two years later, broke down just as it was about to complete its report. Two years after that, a chair's report done without the full panel was approved by the WSIB's board of directors. Now, two years after that, we're waiting to have the draft policies that should result from that process distributed to us for comment.

It's hard, really, to know where to place the blame for all that. We're still left with outstanding reports from the Occupational Disease Panel, which was abolished 10 years ago, to be reviewed and acted upon by the board, because they've been waiting for their own process to come up with that. But it's clear that the board can't handle this all on its own; the problem that was there in the first place is still there.

I don't want to just throw mud at the board on this, because I think in fact that the attitude there has never been better than it is right now. What that tells me is that there's a systemic problem with the way that this is set up, and we need the establishment of an independent—in fact, a stronger oversight body on this issue.

Look at the case of Jean and Barb: Their husband and father began fighting for his claim in 1992. He passed away almost 10 years ago. His claim has just passed the final level of appeal at the board and is ready to go on to the independent appeals tribunal. That is not as unusual a case as I think you might be led to believe by people from the board presenting earlier today. There are scores of cancer and asbestosis cases that have been discovered in the last five years alone in Sarnia alone that are still waiting to be dealt with.

What we need is an independent body that's able to make strong policy recommendations that the board must respond to in a timely fashion and that also has not only an independent research capability but educational capability. As pointed out on page 17 of your research memo from the legislative library, a recent study by the board and Cancer Care Ontario showed that claims for compensation were filed in only about half of the diagnosed cases of mesothelioma, which is a cancer that has only one cause in this province—asbestos—and is practically only occupationally caused. It's the most well-studied

carcinogen, the most clear-cut case of causation, and yet it seems like even physicians aren't really aware that they should be reporting these cases to the Workplace Safety and Insurance Board. I would say, based on my own experience, that a lot of them aren't even following up getting occupational histories from people in the course of that treatment. While obviously setting up more government bodies isn't a cure-all for every problem, this is really vitally needed in the area of occupational disease.

The next issue I'd like to address is one of fundamental fairness in compensation for losses. I was in attendance this morning and I know that members of the committee appreciate the importance of this issue, so I won't belabour it, but that's the indexation of benefits. I would just like to point out, as a lawyer representing injured workers, that the political presentation of this issue over the years has really been quite unfair. We're not talking about giving cost-of-living protection to pensions and what were called "gold-plated pensions" at the time that de-indexing was brought in. What we're talking about is something that is absolutely necessary in order for any compensation to be fair. This is a matter that was commented on by the Supreme Court 30 years ago: If you're going to compensate someone for future loss of earnings, you have to fully take account of inflation; otherwise, you're just not compensating them for the loss.

Here in the no-fault workers' compensation system, injured workers are already compensated at just a fraction of what damages would be in a civil action, no matter how negligent their employer may have been in causing their injury. Losses for pain and suffering are paid at a rate of roughly one quarter of what they are in civil actions, and in Canada we have a very strict cap on pain and suffering damages even in that context. This isn't America, where you can go sue somebody for \$1 million for pain and suffering.

1540

In the area of wage loss protection, it is also the case that the benefits are not full, and entire types of damages are totally ruled out. So we've seen over the past 10 years a reduction in injured workers' real compensation for losses of 25% even if the board got everything right in adjudicating the claim, and their compensation will keep going down as time goes on and less gets fixed. This was a disgraceful move, really, when it was implemented, and it's only getting worse as time goes on.

One of the things that really exacerbates this is the deeming provision of the act, because the board does not nearly always get it right, so that the indexing effect is multiplied by that. Injured workers do not get the benefit of having an individual assessment of what they were likely to be able to earn if they had gone on working. If you're on an upward swing in your career path, that's only taken into account in the very rare circumstances of a formal apprenticeship or training program; otherwise, it's ignored. But on the other end, nearly every injured worker is deemed to be able to have some sort of a job. Whether or not that worker actually even ever gets a job,

as the deeming process goes along over the years, they're deemed to be increasing their wages because of their experience, so that by the time of the final review, even a worker who has never returned to work, if the board thinks that they should have, they will be deemed at the wage of a fully qualified worker in a field they may never have worked in and may never work in at any point in the future.

Although we're now 17 years into this deeming scheme, which first came in in 1990, there are no comprehensive studies of whether or not the board has even done any sort of a reasonable job on doing the deeming and what the results are. We don't know if the workers who received their final deeming 10 years ago are actually earning what the board thinks they should. We don't know if they're radically under-compensated. In theory, we don't know if they're radically overcompensated. We know in practice, because only one group has been calling for years and years and years for that comprehensive study: injured worker groups and the labour movement. The employers may talk about overcompensation, but they're not asking for that study. The only study I'm aware of was done by the board in the early to mid-1990s, and it showed that roughly 80% of the workers who were being reviewed were unemployed, but only 6% were being recognized as unemployable.

That relates to the earlier question this morning about CPP benefits. The board told you this morning that 4,000 of those workers had their situation improved recently. None of them had their situation improved by having the board finally recognize that they were unemployable. It's just that the board has now stopped saying that they could have a job and collect CPP on top of that, which would be, in practice, impossible anyway.

The other issue that hasn't been studied is the effectiveness of the design and implementation of the board's experience rating program. You've heard a bit about this program. I don't know that the immensity of it has really been put forward by anyone. Billions of dollars are shifted among employers by this program. Over the last 10 years, the off balance, the difference between the rebates and the surcharges, has been \$2 billion more paid out than taken in in penalties.

The direction of this program is haphazard at best. There's no question that economic incentives work. There's no question also that they don't work perfectly. Again, we've asked for research on this and have not been able to get it, except for the most public relations kind. You've heard automobile insurance mentioned. What we get as proof that this is working is basically a survey of drivers that says, "You're aware that your insurance will go up if you have an accident, right?" followed by, "Does that make you want to drive more safely?" The answer is yes, so everyone agrees, then, that experience rating works to promote workplace safety, or at least the board and the employers agree on that.

When important questions are asked by others outside of that context, the answers are very, very different. When households were surveyed, when workers were

surveyed outside the workplace, it turned out that 40% of work-related injuries had not been reported that these people knew of. When physicians were surveyed, 54% of work-related injuries that physicians knew of had not been reported. Both of these are cited in a commentary piece in last month's Canadian Medical Association Journal, which points out that that means 54% of the injuries were foisted on to the public health care system in violation of the Canada Health Act and that important red flags regarding workplace safety were missed.

The board and employer groups who tell you that there may be a little bit of fuzziness around the edges do not have a good answer for why these sorts of surveys produce these sorts of results. They also don't have a good answer for why, over the last decade, this much-touted decrease in injuries is twice as big in the no-lost-time claims as it is in the lost-time claims, and non-existent in the fatal claims. Workers and doctors do have an explanation for that: The easier something is to hide, the more incentive there is to hide it, and the more it will be hidden. It's hard to hide fatalities, although I have a pretty chilling example about that if anybody would like to ask me about it in a minute.

So incentives work. If you offer incentives to reduce claims costs, which is all we have in our experience rating program, and with very few controls, what you will get is some activity to increase workplace safety, some activity to hide claims, some activity to fight just claims, some activity for good return to work, and some activity towards bringing people back towards counter-productive, unproductive, unprofitable phony jobs. There's research on all of this as well, yet it's continually denied. Without better design and appropriate controls, these programs will remain expensive boondoggles. And they're very expensive. Again, I'm more than happy to get into more details on that.

For example, certified members have come up over and over again. To get your cheque from the board, you don't have to have a certified member on a joint health and safety committee. The board actually certifies the members but they don't cross-check, and that's pretty ridiculous, really.

The Chair: Thank you. I think we are going to the NDP in this rotation.

Ms. Horwath: Can you just expand a little bit on that final point that you were making about the lack of cross-checking of certification of employee members on the joint health and safety committees?

Mr. Wilken: As I said, the experience rating program itself looks only at claims costs. One of the intermediate steps would be to introduce a series of cross-checks on that; for example, that you couldn't get a rebate cheque without having a workplace health and safety committee in place with a certified member, as you're required to do by the act. There could also be checks similar to the Workwell program that actually go into a workplace, look at health and safety conditions, look at the procedures, and make sure that everything is being done properly. The Workwell program is hated by em-

ployers—you heard that from the CFIB today—who love experience rating. The only way to fall within Workwell is if you fail at the experience rating program. So everything is turned around backwards.

Ms. Horwath: Is there, then, a proportional number of—I don't know if I'm getting this right. For those numbers of companies that are not doing well with experience rating, you would expect that same number of companies to be involved in Workwell. Does that bear out statistically, do you know?

1550

Mr. Wilken: I don't know. I have no reason to doubt the CFIB's figures that only a small number of workplaces have actually been subject to Workwell audits.

Ms. Horwath: I meant to ask that question earlier but didn't get around to it.

I don't know how much time I have, Madam Chair. Do I have a little bit more?

The Chair: Yes, you do.

Ms. Horwath: You had said that there was, if anybody wanted to ask, a chilling story of a hidden death. I actually would be interested in that. It seems to me there's some disagreement or there are different versions of what goes on. I think a previous presenter was saying that there's no incentive at all to not tell the truth or not be honest about these issues that are occurring at work.

Mr. Wilken: In this particular case, I had reported to the board in 2000 an employer who failed to report a workplace injury that was quite serious. They talked the worker out of reporting it, and they did pay him some money on the side because they figured it was worth their while. I'm sure Mr. Liversidge is right. Well, I know in this case they didn't really understand the system totally. But there are certainly—because it depends on your entire accident cost record. There are certainly situations where it would be worth your while to pay a particular worker's entire wage in order to avoid crossing certain thresholds, just by the way the system is set up.

Three years later, this company had five workers killed in a train wreck with a car. They were eventually caught by the board when they forged some documents to try to make it look like the person driving this vehicle was not acting as their employee at the time. Because the families had such a great interest and pursued the matter, they were eventually found out. Then, when the board did a full investigation, it was found that they owed, in addition to the penalties they eventually got from the prosecutions, several million dollars in other fees and presumably paying back experience rating rebates and that sort of thing.

I have no reason to think that it's changed. I know I have not had any contrary experiences where I've complained about a failure to report where it's actually been prosecuted or even been subjected to an administrative penalty by the board. And no one at our clinic who has ever done so has ever had any action taken on such a complaint.

The Chair: Thank you very much. Mr. Gravelle.

Mr. Gravelle: Thank you very much, Mr. Wilken, for being here today. It was a very strong presentation. There are a lot of questions I'd like to ask you. I wanted to ask you some questions about your organization, but there may not be much time for that, in terms of working with injured workers' groups across the province. Certainly your comments about the occupational disease issue—it is a big issue. In fact, I was thinking of Mr. Mahoney's comment this morning. Steve, if you're listening, you can confirm. The number of fatalities by accidents is what percentage? Occupational disease is a much higher percentage in terms of the fatalities. It seems to me there is a very strong awareness of this.

What I wanted to ask you was—and perhaps this won't be the most comfortable one, but I hope it is—what's your relationship like with the WSIB? Do you feel you have a relationship with them, that you can have a discussion about these issues with them, and have you had that opportunity?

Mr. Wilken: Yes.

Mr. Gravelle: You talked about a more positive attitude that you're seeing, which is good.

Mr. Wilken: We are involved in a number of committees and so on at the board looking at various issues. Certainly over the last few years, the productivity of those sorts of groups has improved. If you had asked me five or six years ago, we'd have considered that to be a waste of time and really felt like, when we were invited to the board, it was just to keep our wheels spinning and waste our time more than anything else. That feeling has certainly gone.

That said, when it comes to these big crunch issues like the ones I've talked about today, we still cannot get the board to take them seriously enough to even do the research that needs to be done from the point of view of prudence. While I haven't given any thought to what Mr. Liversidge was saying specifically in terms of ongoing review and oversight, I know that at our clinic we have a filing cabinet filled with submissions that used to be made on an annual basis to the standing committee on resources development. There needs to be that sort—some sort—of ongoing review of the board externally. Like I said, even when there is a good attitude there, that's not really quite enough.

Mr. Gravelle: There needs to be further discussion about this, obviously. I certainly have concerns of my own in my riding in terms of some of the issues surrounding silicosis, which, on one hand, officially no longer exists, but indeed it does. There are some real challenges in terms of people being able to make that claim. I presume that would tie in—you're talking about asbestos and asbestosis more commonly, but that's another one. Are you familiar with that concern, which is more of a northern concern, perhaps?

Mr. Wilken: Not so much.

Mr. Gravelle: Okay. I think your points were extremely well made and I just think it's a good opportunity, obviously, to have further discussions. I am encouraged by the fact that, again, in the presentation

made this morning by Mr. Mahoney and Ms. Hutcheon, they were very conscious of occupational disease being a huge issue. So hopefully we can have some more discussions about that.

Thank you very much.

The Chair: Mr. Martiniuk.

Mr. Martiniuk: I thank you for your excellent presentation. I'd like to deal with—and I'm going to have to simplify it, but a lot of the cases, claims, are really judged by conflicting medical information, as I understand it, especially when you come to occupational diseases and you get into the causal effect. There's a committee, being the Medical Review Committee, which is supposed to in a sense adjudicate between conflicting medical opinions, or that's my understanding. As a practical matter, have you used the facility of this committee in any of your dealings?

Mr. Wilken: No. That's not my experience of the adjudication of claims or the way that advocates are allowed to interact with the board in these sorts of complaints.

Mr. Martiniuk: What is your experience, then, when you come to the conflicting opinions?

Mr. Wilken: Again, it's almost hard not to caricature some of the things that you see, because it is the negative, poorly dealt with cases that tend to come through our door. All too often, what we see in terms of how the medical evidence is dealt with is that the matter's reviewed through a medical consultant who's either

employed by or contracted to the Workplace Safety and Insurance Board. They're just asked to express an opinion, and sometimes those opinions may be just one or two sentences, with no reference to whatever texts or studies they're talking about. That is actually a major problem, that the evidence that is relied upon is often just someone's say-so. They're not necessarily the best-placed person to answer the question, and it's impossible to know the basis of the opinion.

Mr. Martiniuk: Are you suggesting that some of these medical opinions in fact end up being the adjudication of the merits?

Mr. Wilken: Oh, absolutely. That's a general problem in the workers' compensation area. Quite often you'll see in files sort of a leading question put by an adjudicator saying, "I think this should be disallowed" or "I think this should be allowed," and then what comes back from the medical consultant is just "I agree" or "I disagree," and the case is decided on that basis.

Mr. Martiniuk: So this would encourage appeals, then?

Mr. Wilken: Absolutely.

Mr. Martiniuk: And delays. Thank you.

The Chair: Thank you very much for coming here today and being able to give us your expertise. We appreciate your coming.

The committee is adjourned until tomorrow morning at 10 a.m.

The committee adjourned at 1600.

CONTENTS

Tuesday 27 February 2007

Agency review: Workplace Safety and Insurance Board	A-473
Workplace Safety and Insurance Board	A-473
Mr. Steve Mahoney	
Ms. Jill Hutcheon	
Mr. John Slinger	
Ms. Malen Ng	
Ontario Federation of Labour	A-491
Mr. Wayne Samuelson	
Canadian Manufacturers and Exporters, Ontario division	A-495
Mr. Ian Howcroft	
Ms. Maria Marchese	
Canadian Federation of Independent Business	A-499
Ms. Judith Andrew	
Mr. Satinder Chera	
Industrial Accident Prevention Association	A-504
Ms. Maureen Shaw	
Mr. Les Liversidge	A-508
Industrial Accident Victims' Group of Ontario	A-513
Mr. Dave Wilken	

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19
52



A-30

A-30

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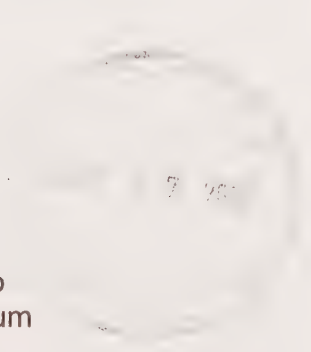
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Health Professions
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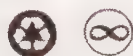
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

Wednesday 28 February 2007

Mercredi 28 février 2007

*The committee met at 1010 in room 151.*AGENCY REVIEW
HEALTH PROFESSIONS
APPEAL AND REVIEW BOARD

The Chair (Mrs. Julia Munro): Good morning. Welcome to the standing committee on government agencies. I welcome you here for your opportunity to give us some insight into the Health Professions Appeal and Review Board. For the purposes of Hansard, I'd ask that you introduce yourselves. You have time then to provide us with a presentation and after that we'll go in rotation for questions.

Ms. Linda Lamoureux: Thank you. I'm Linda Lamoureux, chair of the Health Professions Appeal and Review Board. With me today I have David Jacobs, who is board counsel, and Abby Katz Starr, registrar and chief operating officer of the Health Boards Secretariat. Thank you for the opportunity to speak with you today. I'd like to use my time to bring you up to date on the Health Professions Appeal and Review Board and the vital role we play in ensuring the quality of Ontario's health care system. Let me start by giving you a bit of background on our board, who we are, our mandate and what we are doing, and then I'll tell you about our strategic priorities going forward.

In Ontario, human health professionals and veterinarians regulate themselves through the colleges. So, for example, the College of Physicians and Surgeons of Ontario regulates the doctors, the Royal College of Dental Surgeons of Ontario regulates the dentists, and so on from there. The Health Professions Appeal and Review Board is a quasi-judicial body that provides one of the key safeguards in Ontario's health care system. Our board is made up of members of the public, none of whom can be members of the regulated health professions. The Ontario regulatory system, which combines professional self-regulation with public accountability and input, was set up in 1974 with the support of all parties. Its purpose is to further the government objective of ensuring that the activities of the health professionals are regulated and coordinated in the public interest. This includes the objectives of developing and maintaining appropriate standards of practice and ensuring that individuals are treated with sensitivity and respect in their dealings with health professionals.

Ontario created the Health Professions Appeal and Review Board as the prime vehicle for public oversight. We are an independent appeal and review tribunal that has jurisdiction over the regulatory activities of 22 human health professions and veterinarians. Under our mandate, we fulfill four important roles. At the request of members of the public or individual health professions we review decisions made by the complaints committees of the colleges. When it comes to the registration of health professionals, we are an appeal body. Specifically, if applicants are dissatisfied with the decisions of the registration committees of the colleges, they can ask us to conduct reviews or hold hearings of their applications. We also review or hear applications in relation to the decisions of the accreditation committees of the pharmacists and the veterinarians. Last but not least, we hold hearings concerning physician hospital privileges under the Public Hospitals Act.

Typically, three board members are involved in every hearing, and here's how our process works in practice. Each college has a complaints committee. Members of the public who have a complaint about a health professional can ask the complaints committee to investigate that complaint. Our board then has the authority to confirm the decision of the complaints committee, make recommendations to that committee or require the complaints committee to take further action.

We also review or hold hearings of the applications by health professionals for registration or accreditation in the case of a pharmaceutical or veterinarian facility. In these cases, our board has the authority to confirm the decision of the registration committee, require the college to issue a certificate of registration or a licence in certain circumstances or with certain terms or conditions. We can also refer the matter back to the registration committee.

We also hear appeals of decisions concerning the practice privileges of physicians in about 135 of the public hospitals, and our board has the authority to reinstate those physician privileges.

We hear issues that pertain to all aspects of health care in Ontario, including dramatic life-and-death issues. This includes everything from complaints involving the death of a child or a parent, prescription errors, misdiagnosis and allegations of incompetent treatment and rude and uncaring behaviour to major medical errors and medical opinions affecting child custody cases, personal injury suits, provision of workers' compensation benefits and

improper medical care for animals. These issues, and our decisions, are critical elements in safeguarding Ontario's health system. So that's who we are, our mandate and what we do.

I'd like to tell you a bit about our direction for the future. Since joining the board in late 2005, I've focused on three key themes for the board: fairness, openness and accountability.

I've also set four key strategic objectives for my tenure. My first objective is to ensure that our board's role in the delivery of health care in Ontario adds value to our stakeholders. Our stakeholders include recipients of health services, the health professionals, the colleges, other institutions involved in health services and the public. My second objective is to ensure that our board brings quality and objectivity to its decisions. Thirdly, I'm working to ensure that the members of the board represent and respect the diversity of Ontario. Fourthly, it's my objective to have members of the board and the staff focused on continuous improvement of our services.

I'm happy to say that we are making significant progress on all these initiatives. We are improving the delivery of the board's services, enhancing the public's understanding of our work and developing the board's capacity and effectiveness. Here's how. We're improving our service through a complete review I've undertaken into recruitment, administrative processes and procedures. We've made our board more representative by adding new members from across Ontario who reflect the province's geography and demographics and are sensitive to its issues. They bring a diverse set of skills and experiences. We're improving our adjudicative capacity by providing members with ongoing professional development and training. We've made significant changes to improve access by improving and introducing pre-review conferences, launching a review of our rules of practice and reviewing our procedures to ensure that they are consistent with our themes of fairness, openness and accountability.

That, briefly, is an outline of our board, our mandate, our responsibilities and our direction. If you have any questions, I would be pleased to answer them.

The Chair: Thank you very much. We'll begin this morning with the government caucus. Ms. Mitchell.

Mrs. Carol Mitchell (Huron-Bruce): Thank you very much for your presentation. You have laid out your four key strategic objectives that you want to see go forward in your tenure. But I want to give you the opportunity to speak specifically about the training for your members and how you are enhancing their ability to make a decision.

Ms. Lamoureux: That's one of the areas I have done a considerable amount of work on. When I joined the board in late 2005, it was clear that members had not received training and education in a formal capacity or an informal capacity. One of the first things I did was to introduce monthly board meetings. Those meetings provide an opportunity for members to share their experiences, to discuss legal issues that are arising and to be-

come familiar with changes in the law that are applicable to the kinds of cases they would hear.

1020

Secondly, at those board meetings, we always have a speaker from one of our stakeholder communities, such as the colleges, to provide an overview of the work that they're doing, provide understanding and present the context to members so that they can understand the context in which decisions are being made at the college level.

I'm also pleased to advise you that since November up until the present time, we've had outstanding support from members of the legal community, the health community and our stakeholders, who have come to the board—most of them pro bono—to volunteer their services to provide us with some very significant educational sessions. There's been an increased focus on decision-writing, and coming up in April of this year, we have a session with Mr. Justice John Laskin, who will be providing us with a workshop. I started a workshop immediately in 2005 when I joined, and I think we've had it every quarter thereafter to improve the quality of our decisions. All of our courses have been focused on the nature of the work that we do.

One of the most interesting courses for board members that we attended recently had to do with the cultural and religious aspects of end-of-life decision-making in an intensive care unit. We were privileged to hear from all members of the various religious communities and cultural groups that are represented in Ontario so that we could understand the legal and health care contexts in which we operate. It's really been invigorating and intellectually stimulating for everyone involved to get this kind of education and training as we've progressed.

We had a week-long session early in 2006 to introduce members to the legislation. We are responsible for being familiar with the Ministry of Health Appeal and Review Boards Act, the Regulated Health Professions Act, the code under that act and the college-specific legislation applicable to the 22 colleges. We are also responsible for the regulations, the policies, procedures and guidelines for each of those colleges, and related legislation, such as the Human Rights Code, the charter, family services legislation, consent legislation—a whole myriad of material and legislation that our members must be aware of in order to make informed and relevant decisions.

Our whole focus has been on continuous training and development. You probably can tell I was very excited about it. It's just been phenomenal, and I think the members have appreciated that as we've moved forward. We're starting to see it reflected in the quality of our decision-making as well as the quality of the decisions—how they look, how they read. I think they're more easy to read; you know up front what the decision was. We're emphasizing analysis and reasoning. I've also provided increased support from board counsel to support the members in their decision-writing so that we can add value and our decisions are meaningful to the colleges.

Mrs. Mitchell: Thank you very much for your answer, and I do want to make comment on the enthus-

iasm that you are bringing to your answers too. I'm sure that's reflected.

Ms. Lamoureux: Thank you.

The Chair: Mr. Gravelle.

Mr. Michael Gravelle (Thunder Bay–Superior North): Good morning. Thank you very much for being here today. We appreciate you giving us an opportunity to study what you're doing. You won't be surprised: I'm from Thunder Bay; I'm the member for Thunder Bay–Superior North—

Ms. Lamoureux: Pine Portage, Nipigon.

Mr. Gravelle: I know the Vice-Chair from Thunder Bay will be very pleased to see it.

The question always does come to mind in a variety of ways in terms of access for northerners to your agency. I think even a bit of history might be helpful as well, but how do people outside the GTA access the services of your agency? How do they do that? Have there been some adjustments to make it easier for them to do so? As I say, that's always a concern for those of us who represent people, in my case, far away from Toronto.

Ms. Lamoureux: As I mentioned or alluded to, I am from northern Ontario originally. When I joined the board, it was clear to me that we needed to ensure that our members were recruited from across Ontario. Your question is specific to northern Ontario, but certainly Ontario is a large province. It was important, in my opinion, that our board represent the geography of Ontario as well as its demographics in order to provide appropriate service.

Our hearings are traditionally held in Toronto. People can participate by a teleconference if it's more convenient, because reviews are not like a trial. We do hold reviews, which are a paper review. People come and make submissions. They can do that by teleconference as well if they so choose, or they can simply submit written material as well. When we conduct hearings, however, that's a different matter. It's important for people to appear in person because you're calling witnesses and it's necessary to have them attend.

What we've done is offer teleconferencing and have now started to recruit members from across the province. We now have members from Thunder Bay, Sault Ste. Marie and Sudbury. We have members from Windsor and London, Aurora, and variety of places, I guess, throughout the province.

We will be holding our first review in London, actually, in the next couple of months, to accommodate two parties who are from the London area. I'm able to take advantage now of the fact that I do have three members in that area. For the north, it's a little more difficult, because being from the north you realize that even though I say I have three people from the north, the distances are very vast. So we'll be working hard to ensure that we can accommodate those requests as we move forward.

Mr. Gravelle: So that is a goal that you have in terms of being able to hold hearings?

Ms. Lamoureux: It certainly is.

Mr. Gravelle: It's good that there's teleconferencing. I know of some agencies where you just have to be there. You actually have to appear in person. I've always thought that was a bit of a problem.

There have been some high-profile cases, may I say, out of the north fairly recently that you were involved with. Indeed, if your goal is to try to increase your service in that regard, I think that would be a positive thing.

Ms. Lamoureux: One of the things we did as well which will help us too is move to set hearing weeks. Prior to my arrival, reviews and hearings could be held throughout the month. What we've done is move to set weeks throughout the year so people know when those will be held.

Mr. Gravelle: So you can plan differently.

Ms. Lamoureux: We can plan; they can plan their attendance. As well, the colleges can plan providing resources to assist us with our reviews and our hearings. This should also enable us to consolidate our reviews and perhaps hold them in one specific area, such as in the north, because as the complaints come in, we can make note of where people are coming from and be able to accommodate those requests. We're also looking into having video conferencing capabilities, also to assist with that particular item.

So a lot of things are being done. Everything does not have to be held in Toronto. We do receive a lot of concerns from the Toronto and GTA area, however.

Mr. Gravelle: I appreciate your answer. Thank you very much.

The Chair: Mrs. Jeffrey.

Mrs. Linda Jeffrey (Brampton Centre): I didn't know a lot about the board so this has been really helpful for me understanding what your role is. I was interested in your stewardship role. You spoke about how you were relatively new to the board and you wanted some new themes. A question came to mind with regard to one of the themes. You talked about representation and diversity. Does the board have an ability to address the issue of foreign-trained professionals? My question is, do you have the ability through some of your decisions to encourage the colleges to register more doctors and nurses who represent that diversity across Ontario?

Ms. Lamoureux: The board does have the jurisdiction to hold reviews and hearings in respect of registration applications to the various colleges. Cases involving internationally trained applicants count for the majority of our registration applications. That number, though, is fairly small relative to the rest of our caseload. We can require a college to register an applicant. There are limited circumstances and the law with respect to registering professionals is fairly complicated. But we do have that ability. We have the ability to send it back to the registration committee to take a look at it.

Through our introduction of pre-review conferences, which I mentioned in my opening remarks, we've also had the ability to resolve some issues at an earlier stage, so it doesn't have to get to an actual hearing or a review.

1030

We had a recent case where an individual's material was missing. They were in a country where they could not obtain access to certain documentation due to the circumstances in that particular country. Through discussions with the college, we were able to have the college re-look at that particular application. It's my understanding that in that particular case that professional was registered, as well.

We also have the ability to take into consideration the Human Rights Code and any charter concerns that may be involved with the regulation of foreign-trained professionals.

The Chair: Ms. Scott.

Ms. Laurie Scott (Haliburton–Victoria–Brock): Thank you very much for appearing here before us this morning. Welcome. I was going to follow up on the question of the structure and your board members. You have 25 members right now—

Ms. Lamoureux: We're up to 27.

Ms. Scott: Okay, I just wanted to clarify. You were explaining about enhancing the training, the availabilities, and you certainly have a broad spectrum of orientations for people coming on to the board. Roughly, how long would it take to train a new board member with the adjustments that you've made for a new training program?

Ms. Lamoureux: For complaint reviews, I think a member is up and fully functioning within a six-month period, keeping in mind that part of the training program is observation and mentoring. So members are placed with more experienced members in order to assist them. In terms of observation, they sit in on actual reviews and hearings, they read the file, they observe the proceedings, they listen to the deliberations with the consent of the parties, and they participate in terms of reviewing the decision. They can't participate in the actual decision-making, but they get to observe, to listen and to ask questions. They're then placed on panels, again as a side panel member, as part of their education process on an ongoing basis.

With respect to registration matters, because of the complexity involved, that takes longer, and I use more experienced members who are well versed in that. Again, we use a similar process in terms of the formal education component as well as the informal component, which is the observation and the mentoring program.

Also, a number of the members who are joining us bring to the board already—as part of recruitment, we're looking for strong analytical skills, reasoning capabilities and decision-writing skills that they can bring forward already when they come into the organization as part of our program.

We also have a great resource in board counsel, who can provide advice and guidance on request. One of the provisions in our legislation is that we are to retain outside legal counsel, and when they provide a written or oral opinion on a particular case, that must be provided to everyone. So that's good for the board members and also

good for the parties appearing in front of us. Our board counsel attends our board meetings to keep us updated on recent changes in the law and to address any issues or concerns that we might have.

Ms. Scott: Are members trained in, say, licensing directions, more so? Are the different board members trained for different—

Ms. Lamoureux: All board members receive training in the legislation, and the pieces of legislation, as well, that may apply to a certain case. Registration matters require more intense education and learning. So while everyone has a general overview, we're developing a small team, almost like a fast track, for registration matters so that they can address those issues, because they affect people's livelihoods. So it's important that we get to those faster and that our decisions are issued faster, as well, with respect to those matters. That's an initiative, this year in particular, that I want to address: to get the decisions out even faster than they are getting out with respect to those and also developing the capacity for registration matters with the board members.

Ms. Scott: That's good to hear, because you had mentioned previously that it's mostly newer Canadians coming in with the registration—so the fast track. Can you give an example of someone coming with registration—a situation that would have occurred that involved the board and the fast-tracking? Was there a month turnaround or a two-month turnaround type of thing? Is there an example you can give?

Ms. Lamoureux: Yes. In a recent case we had a month turnaround time for someone applying to one of the colleges. We were able to hear their case relatively quickly and we were able to issue a decision within one month. We certainly don't meet that target on all occasions. We're working hard to do so with respect in particular to registration matters. The registration matters typically take longer if a person has requested a review. That's a paper review where they don't attend; we just review the material. If it's a hearing, it's really dependent upon the information the parties bring, the witnesses that they propose and the process that results. So there may be a series of motions that are being brought forward that will take longer in a particular case and the availability of the parties. Sometimes the applicant can't sit for three or four days for a hearing so we hear it at different times to accommodate everyone involved in that particular matter. I can't discuss particular circumstances. I can just provide generalities to you.

Ms. Scott: That's fine. Would most of the registration matters be physician-related or other professionals? What would they be, just out of interest?

Ms. Lamoureux: Actually, we have very few appeals from the College of Physicians and Surgeons. I'd say our numbers are primarily from—I'd turn to Abby.

Ms. Abby Katz Starr: In 2006, there were only eight requests out of the CPSO on appeals of denial of registration.

Ms. Smith: Can you speak up?

Ms. Scott: Just move the microphone a little closer.

Ms. Katz Starr: In 2006, we had eight requests out of the College of Physicians and Surgeons with respect to registration matters. In 2005, it was six. It does represent a smaller number of our caseload.

Ms. Scott: And other health care professional registrations? What would the other cases be for—

Ms. Katz Starr: For the CPSO?

Ms. Lamoureux: No, for the other colleges.

Ms. Scott: Other colleges, yes.

Ms. Katz Starr: I can give you an example. For the College of Nurses, for example, in 2006 there were 15 requests and in 2005 there were 12, and then they get smaller with the colleges—

Ms. Scott: So physicians and nursing, and then it goes down from there. Okay, just out of interest. You know, we don't have any idea of the number of cases you hear in regard to the registration. Because it's in the news a lot—right?—about registration of newer Canadians coming into the professions and not being able to work.

Ms. Lamoureux: One of our objectives and one of the objectives identified is that it doesn't seem to be common knowledge that this right is in existence for members who are applying for application, or the jurisdiction of the health professions board. We've been working very hard in terms of outreach activities as well so that we can actually inform people as to their rights. For example, we just had a session at the invitation of the Canadian Hispanic Congress to come and speak to interested parties with respect to complaint reviews, registration in particular. We were able to provide them with an information pamphlet in English and Spanish as well, because that's the audience. In a couple of months we've been invited to speak to the Chinese Interagency Network, which is an umbrella organization of 34 organizations throughout the GTA, again with a focus on registration matters so that people are aware of their rights and appeal rights under the legislation.

Ms. Scott: I know that you're improving public awareness of appeals. How did it normally work? It is very difficult for someone, especially a newer Canadian coming in. Is it mostly through the network of their specific culture coming in, like organizations, that make them aware, or is there some centre point? I know I'm asking a question that might be hard to answer.

Ms. Lamoureux: It's the responsibility of the colleges to inform people applying of their rights and what they're entitled to. I think there are difficulties for any person when English isn't their first language, in a new country. There are several issues that they need to contend with, but it's the responsibility of the colleges to provide that education. From the perspective of our board, though, it was clear that perhaps the rights under the legislation weren't as clear to them, and we've used an opportunity with the diversity of our membership to tap into it so we can actually inform people about their rights.

1040

Ms. Scott: There's a bill before the Legislature right now, Bill 171, that's going to recommend that homeopathy, naturopathy, kinesiology, psychotherapy, and

hearing instrument practitioners be added as new professions recognized and regulated under RHPA. That's going to significantly increase your workload, with all probability of adding more professions. It was brought out in New Directions under HPRAC—I use acronyms for us internally—that they be regulated and recognized. So that, I would think, would create more of a workload for your board. Are you thinking down the road of the possible implications of that?

Ms. Lamoureux: I don't want to seem evasive of your question, but our mandate is to apply the legislation as it stands. If there is additional work as a result of anything coming forward, I would have discussions with the ministry and address those questions. Certainly, though, through the increase in board members which I have been experiencing, I feel that we have been able to handle our current workload that we have. I have a very good relationship with the ministry and I'm confident that in any future discussions we would raise any issues that may come forward, but they're not before me at the present time.

Ms. Scott: It's just something to think of that's coming down.

Ms. Lamoureux: Thank you.

Ms. Scott: It's a large bill. I just wanted to get your comments on that.

I think that's fine for now. Thank you very much.

The Chair: Ms. Martel.

Ms. Shelley Martel (Nickel Belt): Thank you very much for being here this morning. I actually want to start where Ms. Scott left off. I'm not sure where the reference came from. There's background material that was provided to the committee members. The background material suggested that the board had indicated that the current level of funding is not adequate to keep up with increased demands for service that would be created by increasing the number of professionals under the RHPA. I'm not sure where that information came from, but that is the nature of Ms. Scott's comments, and it was also going to be one of my questions. In looking at Bill 171 and the possibility of a number of health care providers now being regulated, who suggested that the current level of funding was not adequate, and what kind of price tag or what kind of assessment have you made about the human and financial resources you're going to need if the bill passes?

Ms. Lamoureux: We haven't made any assessment with respect to Bill 171. In responding to that question, the budget is negotiated each year with the Ministry of Health in conjunction with the Health Boards Secretariat. We have a shared-services model with other boards. I'm going to ask Abby to respond to that in more detail as a background piece first of all, and then I'll comment further.

Ms. Katz Starr: Let me first tell you a little bit about our model, because it is a bit unusual in the adjudicative world.

I am the chief operating officer of the Health Boards Secretariat, and that's a shared administrative model that

provides all the operational and administrative support to both the Health Professions Appeal and Review Board as well as the Health Services Appeal and Review Board. We provide additional administrative services to the Ontario Review Board and the Consent and Capacity Board and have the capacity to support, on the administrative side, the Ontario Hepatitis C Assistance Plan Review Committee. So we have a pretty robust capacity and a very experienced group of staff and set of processes to support multiple boards. But in recognition of growing caseloads and the need to keep up with the technology, we've introduced some improvements in anticipation of what we likely will see in ever-increasing caseloads. For example, we've now established a new case management system for the Health Professions Appeal and Review Board which is the same as the one we use for our other boards, so again, increased capacity; staff resources can be shared. We've been doing cross-training of staff so that people can pitch in for one another and either do the caseload or plan around planned absences so we don't have to have any interruption in our administrative process.

We've also, with the support and encouragement of our new chair, done a full business process review since her arrival of how we do our business, and whether there are ways to do our business a bit better to eliminate unnecessary or duplicate steps; to increase our use of technology, both for the board members and for the staff; to have more remote connections in order for more information to be shared and not have to have everybody present to send materials, for example; and other ways of reducing the amount of time just for exchange of material. So on the staff side, we are constantly looking at ways to improve our current service, with a mindset to looking to the future in anticipation of the issues that may come with caseload.

Additionally, I work regularly with my ministry contacts around budget projections and forecasts. I provide monthly forecasts, quarterly reports. I'm always identifying any potential for some budget issue, although we try very hard to work within our budget. We've introduced new billing processes for the members, more controllership, whereby there's a standard now that members must bill by, and they can only have an exception to those rules with approval of the chair. So again, we have better controllership of our spending.

In recognition of the public service component of our OICs, we've shared those new rules and we've done training with the board members to bring them on side to also be careful with the public dollar. So we're trying, on the administrative side, to support the Health Professions Appeal and Review Board in dealing with what will perhaps be an adjudicative burden coming forward and being prepared to handle those issues.

Ms. Lamoureux: If I could just add a further remark to that, Bill 171 has yet to be passed, and certainly it would be my experience that I would be entering into discussions with the ministry if and when it is passed. Part of that would be a discussion—if there is an antici-

pated increase in workload, we'd have those discussions at that time.

Ms. Martel: Maybe I can just read into the record what was said and then you can understand why I'm asking this question. In the briefing notes we were provided, it says, "In its response to the committee's questionnaire, the board suggested that its current level of funding is not adequate to keep up with increased demands for service that would be created by increasing the number of professions under the RHPA, especially given that 'recent jurisprudence has significantly and appropriately added to the complexity of proceedings before the board.'"

I'm not an ongoing member of this committee, so I don't know about the questionnaire and I never saw the answers. But I assume that somebody wrote that, and I'd be interested, then, in the reasoning for it. I was interested in two parts. First, if the current level of funding is not adequate, what would be adequate? And the second part of this: "Especially given that ... 'jurisprudence has significantly...added to the complexity of proceedings before the board.'" I don't understand what that means either and how that may add to new staff demands.

Ms. Lamoureux: I take responsibility for answering that question, and I did write that. The reason for that was that the budget the question related to was a budget done prior to per diem increases for members. We had not anticipated that increase at that time, so I confess that I answered it quite literally that my budget was not reflective of the increases at year-end. However, again, my experience with the ministry is such that in our next budget negotiations, we'll be taking that into consideration. So I certainly didn't mean to suggest, but I did answer, that my budget did not reflect what my expenditures were going to be for this year, and that's really what the answer was directed at.

With respect to anticipated complexities, that's referencing the Human Rights Code and a recent decision in a case called *Tranchemontagne*, which I'll ask our board counsel to provide you an overview of. That is something that all boards and tribunals must take into consideration now when they are arriving at decisions. We're addressing that in part through increasing training focus.

David, would you like to speak briefly to that case?

1050

Mr. David Jacobs: Sure. In the recent and very important decision of the Supreme Court of Canada in a case called *Tranchemontagne*, the Supreme Court of Canada ruled that all administrative tribunals, including ourselves, are bound by the provisions of the Ontario Human Rights Code. So we now have an obligation to look to the Human Rights Code, to apply the Human Rights Code and interpret the Human Rights Code. In some situations, we are authorized, in fact obligated by the law and by what the Supreme Court said in *Tranchemontagne*, to ignore provisions of legislation, regulations, bylaws and policies which we would find to contravene the Human Rights Code.

In that case, the Supreme Court of Canada dealt with a decision of a social services agency which decided not to

provide welfare benefits to somebody who was an alcoholic because that's the way their legislation and regulations read. The Supreme Court said that they should have read that out of the legislation and that the social services board should have in fact read the legislation as if that didn't happen, because alcoholism is taken to be a disability within the meaning of the Human Rights Code. So it was discriminatory not to provide benefits to somebody who was alcoholic.

That also applies to us. We're going to have to, for example, in the registration decisions, look very carefully at registration regulations and policies of colleges in order to determine whether they conform to human rights law, and if they don't conform to human rights law, we have a number of challenges to face and decisions to make as to what action we can take, including overriding the regulations of the colleges which we find to be discriminatory, if we ever do. But it does provide a serious burden on the board to look carefully at registration regulations and legislation in order to determine whether they conform to the Human Rights Code.

I think it also says to us that we have to pay very close attention to the Charter of Rights and Freedoms, and that we have to pay attention to this not just in the context of registration matters, but also in the context of physician privileges and rights at hospitals and complaints against professionals.

Ms. Martel: So what does that mean in terms of the training that your staff are going to have to now have in order to make sure that you're complying with those obligations?

Ms. Lamoureux: That's been part of the overall training program. When I joined the board in 2005, I took a very careful look and, in conjunction with counsel, identified areas that we needed to focus our attention on. We are working very hard, particularly to ensure that we develop the appropriate training programs, again, to focus on human rights and the charter. It's an ongoing training and professional development; you can't just have one week of training and suggest that that's sufficient. It's something that in every single board meeting we do address: What's the latest issue that we need to contend with? What are the types of problems that panel members are encountering? What kind of support do they need from board counsel in particular? What kinds of specialty training programs do we require? This is just something that is now embedded in the work that we are doing and something that we're doing continuously.

One of the programs that we've just developed, actually, with the University of Toronto law school and Pro Bono Students Canada is a program which I call the Access to Justice program. It deals with accessibility but also focuses on training and education. It's the development of appropriate materials for members—member resource materials—which eventually will be available to the public as well—public education materials—and eventually, we hope, available online, that will assist everyone appearing in front of the board, consistent with our themes of fairness, openness and accountability, so

that they know exactly what they're facing when they come forward, what the issues are that they need to deal with.

The second part of that program, which is equally important, is eventually the production of a manual for law students so that they can provide advice and assistance to unrepresented parties. Part of the hallmark of the administrative justice system is to allow access by unrepresented parties; however, they do need some material and some advice and guidance to ensure that they can put forward the best possible case when they're coming before a tribunal like ours.

The Chair: Thank you, Ms. Martel. I'll pick you up on the next round, okay?

Ms. Martel: Thank you.

The Chair: Ms. Smith.

Ms. Smith: I'm actually going to ask the question this time.

Thank you for coming and for providing us with all the information that you have today. As a fellow northerner, thank you for what you're doing in the north.

I just wanted to ask you a question around the MOU, your memorandum of understanding with the ministry. I understand that presently you don't have a signed MOU. It's been some time since the board has had one and I just wondered if you could give us a status update on that: what the situation is currently, why you're in that present situation, and how you're looking to resolve that.

Ms. Lamoureux: The board hasn't had an MOU, actually, and I think it's very important that we do have an MOU. It's certainly a requirement and feeds right into accountability and good governance. We're now on our second draft of an MOU with the ministry. We've had those discussions. I anticipate we'll have one signed very shortly and that we'll be complying with that.

Despite the fact of not having had an MOU, we have been complying with the government requirements for regular reporting, complying with all the government directives issued by Management Board in terms of various directives, expense and travel guidelines, and regular reporting through the annual report, and I have regular meetings with ministry staff. But I do anticipate the memorandum of understanding will be signed within probably the next six weeks.

Ms. Smith: Great. Thanks. Mr. Duguid?

Mr. Brad Duguid (Scarborough Centre): I'm not from the north. Do you have any members of your board who are not from the north?

Ms. Lamoureux: I'm going to have every area represented, I'll tell you.

Mr. Duguid: I get the feeling the north is taking over here. Ms. Martel over there doesn't seem to object to that either.

My question goes back to the 1999 investigation that the Ombudsman had of your board and organization. It's always of interest to us, in particular as government, because a question that often will come up when a report does come out from the Ombudsman is, how have you responded to the recommendations? Have the recom-

mendations been addressed or are they in the process of being addressed? My question is, how have you responded?

Ms. Lamoureux: The 1999 report focused on delays in process issues. At that time, in response to the report, it's my understanding we were provided with increased resources to address those delays. As a result of those changes, under the prior chair, the delay in time of 24 months for a review was reduced 50% up until that time. Since I've joined, I've reduced it a further 25% for a review.

We've had no other formal investigations by the Ombudsman's office since 1999. Indeed, our former deputy registrar was awarded an Ombudsman's service medal, a recognition award. Abby, what year would that have been that Jim received that?

Ms. Katz Starr: It was 2002, I believe.

Ms. Lamoureux: Jim Terry, who was deputy registrar of our board, received an Ombudsman award in recognition of service provided.

The Chair: Mr. Gravelle.

Mr. Gravelle: When you have a decision that's made in terms of one of the regulatory bodies and you disagree with the college that the complaint is being brought about, how does the board proceed then? What happens when you disagree with the college, or when you in fact agree with the complainant, I guess? How does the board then proceed in terms of the process? What happens next?

Ms. Lamoureux: We issue a written decision which could indicate three results. We could disagree with the complaints committee, and in that case we would either make recommendations to the complaints committee, to the college—it goes back to the college. We can direct them to do something such as direct a health professional to receive education, training; they could be sent to quality assurance, if we disagree; or we could, additionally, as I said, provide recommendations on a change in process or ask the college to look at this again within the boundaries of our decision.

Mr. Gravelle: I don't want to get into the details of one particular case that those of us from northwestern Ontario are familiar with, but there was a situation with a physician who was unhappy with the relationship in terms of the hospital. I guess I probably shouldn't go any further than that, but I suspect you know the case I'm talking about. You have the authority there to—yours becomes the final decision in that sense in terms of how the hospital has to respond. Is that true? Because that's a little different than the college, right?

1100

Ms. Lamoureux: Yes, it is.

Mr. Gravelle: It's quite different, in fact.

Ms. Lamoureux: It's a different jurisdiction under the Public Hospitals Act and what we can and can't do. I'm going to ask our counsel to respond to that, Mr. Gravelle, in more appropriate detail.

Mr. Gravelle: Okay. I hope I'm not stepping over the line asking the question, but this is of particular interest. Tell me if I am; I won't be offended.

Ms. Lamoureux: We won't answer about the specific case, but certainly the question as to our authority with respect to the Public Hospitals Act.

Mr. Gravelle: Yes, I guess that is the question. Thank you.

Mr. Jacobs: We have fairly broad authority under the Public Hospitals Act. If a physician is dissatisfied with a decision to not appoint him to medical staff or not reappoint him to medical staff or to withdraw hospital privileges, that physician can appeal the decision to us, the Health Professions Appeal and Review Board. The Health Professions Appeal and Review Board can then actually substitute its opinion for the opinion of the hospital board and can order the doctor's privileges or appointment to be reinstated. Then there's a further opportunity for appeal.

In complaints matters—that is, a physician, a member of the public or a health professional complains about the conduct of a health professional—that's a matter that goes to the complaints committee of a college. If either party, the complainant or the health professional, is dissatisfied with that decision, they can bring that to the Health Professions Appeal and Review Board for a complaint review. But in respect of a decision of a complaints committee of a college, our remedies are between the complainant and the health professional. We can essentially, as the chair said, order the complaints committee of the college to do a variety of things, including conduct a new investigation, all the way up to send the member to discipline, or to take no action in respect to the member.

The Chair: Mrs. Mitchell.

Mrs. Mitchell: I'm just going to make a comment and then ask a question. I certainly am pleased to see that you have sought northern representation. We've looked at the composition of your board, but I would encourage you, as I represent a rural riding in the province of Ontario—there were no rural communities mentioned in the composition of the board.

Ms. Lamoureux: Is there a specific rural community you have in mind?

Mrs. Mitchell: I have many. Southwest is good. Rural: Keep that in mind.

One of the comments that was made in the questionnaire was your concern about representation to the board if they do not have the ability to have legal representation, and to ensure that they have a fair hearing if legal representation is not available for whatever reason. I wanted to give you the opportunity to speak to that. I know that fairness, transparency and accountability are what you're about, so just specifically speak to that. How can I be assured that if one of my rural residents comes forward and doesn't have legal representation, they would have a fair hearing?

Ms. Lamoureux: They don't need legal representation. I'm going to speak generally, setting aside registration matters, which are much more complex, and certainly, I think, require it.

For complaint reviews, when you have a concern about the health services that you or someone else has received—because you don't have to be the recipient of

the service to complain before a board—we've undertaken a number of initiatives. The first one is that we've introduced pre-review conferences. That's an opportunity for all parties to come to a confidential setting with a facilitator. They receive education on the board's jurisdiction: "Here's what the board is. Here's what it can do for you." For example, some people believe that we can award monetary compensation; we cannot. So we clarify what we can and can't do for them. We clarify what their issue is, what information they have and what information they require. The college is not a party, but they participate and, again, they can provide information about their jurisdiction.

What I found is that when I first joined, the number of adjournments was phenomenal, because somebody would appear before a standing committee. They'd never been here before. They didn't know what the room looked like. They were intimidated by the setting and what they were exposed to. Normally, if they were complaining against a health care professional, if it was a larger college, that professional had legal representation, and it's usually a leading health care advocate. It was a very intimidating setting. So the pre-review conference enables people who are not represented or are self-represented to have an opportunity to figure out what the process is all about.

The second thing that we've done, that is under way, is changing the rules of practice. I'm a lawyer by background, and the rules of practice can get unduly complicated, just because that's an area of comfort for everyone. So we're rewriting the rules of practice using plain language so they set out what the process is, what the procedure is, so that, again, someone who doesn't have a legal background or who isn't represented can actually understand where they're going. In assisting us in developing that, for the first time we invited full consultation from as many people and groups as wished to provide their input so we can figure out what those should look like to provide the best service. I mentioned earlier to Ms. Martel our project called Access to Justice with the University of Toronto and Pro Bono Students Canada. That's another way we're addressing that, and again, through the fact that we have the ability, when board counsel do provide an opinion, that it's an opinion for all the parties.

Last but not least, I'm going to turn back to education. A great component of our education has been, how do we deal with unrepresented parties? We've just had some outstanding insight provided to us from people such as Mr. Justice Ormston and Mr. Justice Carnwath, who provided great insights on how we can handle that: What line can we cross as a panel? Because we're there for all parties, we cannot be advocates, but what can we and can we not do appropriately to ensure that there's a level playing field for people appearing in front of us? We've worked very hard to walk that line so we are providing a fair hearing and ensuring appropriate issues are raised.

Mrs. Mitchell: Thank you, and just one more plug for the rural communities. Part of your scope is the veterinarians, correct?

Ms. Lamoureux: Yes, it is.

Mrs. Mitchell: So, as that is the bulk of their practice in rural communities, I would make that plug again. Thank you.

Ms. Lamoureux: Well, I have put forward recommendations for eastern Ontario and I understand, hopefully, subject to the requirements, that we'll be getting representation from it, but I think I have all areas of the province covered and didn't mean to emphasize the north.

Interjections.

Mrs. Mitchell: Thank you.

The Chair: Thank you very much, Mrs. Mitchell. We'll move on. Ms. Scott.

Ms. Scott: Certainly a plug for eastern Ontario, where I represent Haliburton–Victoria–Brock, while we're plugging rural Ontario representation, but I'm sure you're adequately covering all the bases.

Now, when you say you go and seek recruitment for board members, how do you advertise? I'm sorry if I missed it earlier.

Ms. Lamoureux: The Public Appointments Secretariat actually is the vehicle through which people have to apply and appointments are made, but as chair, I identify business needs for the board in terms of skill sets, and in my case I'm also identifying geographic and demographic requirements that I feel are necessary for the board. I have discussions with representatives from the Public Appointments Secretariat to identify those members who have applied through the appropriate website and what kind of requirements I have, and I interview potential candidates. Also, candidates are put forward, so someone may say, "I'm interested." You say, "Well, you can go to the website," and you either interview them—I make recommendations in addition to suggestions that come forward from me.

Another project—I'm so glad you asked that—that we've just developed is with the Maytree Foundation. They are an organization located in Toronto representing a variety of groups. We'll be launching a program in the next couple of months whereby they'll be identifying from their organization qualified candidates who will come and observe our proceedings, because they are public, and they will then receive an education program on the rights and obligations of becoming a board member. We hope to identify for recommendation further members through that process so that we can recommend additional appointments, again to ensure that we're appropriately reflecting Ontario's demographics.

1110

Ms. Scott: So other than the Maytree Foundation that you just mentioned, it's really just through the website and the Public Appointments Secretariat. It's kind of like whoever may be interested can go on the website.

Ms. Lamoureux: Yes. There doesn't seem to be any shortage of people wanting to become members of our board.

Ms. Scott: That's what I was going to ask you. All right. So there's no shortage of that. You were just put-

ting your requirements, which I agree should be a broad spectrum from Ontario.

Ms. Lamoureux: When I joined there were 12 members, which is the statutory minimum. We're now at 27. My goal is 40, because I'm the only full-time member of the board. Every other member is part-time. Again, in order to ensure that we have the appropriate skill set, the appropriate representation, I think that's probably the right number, based on my estimates of what I require.

Ms. Scott: Do you have to get approval from the ministry to increase to 40? What's the budget line difference?

Ms. Lamoureux: Well, they are part-time members and they get paid a per diem, so it depends on the workload and the caseload. I don't need approval. I have hearing weeks. Six matters a day is what we hold, on average. If there is an extraordinary issue, we hold it outside of the regular hearing week.

In addition, the other thing that we do is pre-review conferences. I have facilitators who handle those, also for a per diem rate. So we're actually able to handle a large number of those. All of it's being done, I'd have to say, because of the institution of guidelines, cost guidelines and directives. We're doing it within our budgetary allotment. I'm quite pleased about that. We're doing a great job, too. My members are phenomenal.

Ms. Scott: They must be very dedicated. This is a very complex range of issues.

Ms. Lamoureux: They are. Health care is so pervasive. It touches every aspect of our lives. I've had no shortage of people who want to serve the public, who would like to participate and become members regardless of what the per diem is or is not. The level of commitment has just been incredible. As I said, I have people from everywhere representing a wide variety of groups. The health care area itself is fascinating. Our educational programs are so interesting that there's been no shortage of people wishing to become members of the board.

Ms. Scott: I think it should be open to members of the Legislature to take your educational programs.

Ms. Lamoureux: I'd be glad. You're welcome to attend.

Ms. Scott: And you do have the veterinarian side to it.

Ms. Lamoureux: Absolutely.

Ms. Scott: How many cases would you say in the last couple of years or the last year for the veterinarians—I know Mrs. Mitchell mentioned it—would there be complaints, just to kind of go off-topic for a minute?

Ms. Lamoureux: Let me take a look at my numbers. For complaint reviews in 2006, we had 24 requests for reviews and we had two requests for registration, so not a large number. Our veterinary cases are often the most passionate cases, too.

Ms. Scott: How many board members would be trained? Is there specific training in regards to veterinary issues?

Ms. Lamoureux: No. Everyone receives training with respect to all of the general cases. I divide it more into complaint and registration. They have to be familiar with

the Veterinarians Act as well as the Regulated Health Professions Act and the other pieces of legislation. Prior to a panel taking a case, they would familiarize themselves with the applicable legislation and the applicable college. Again, during their deliberations, they would also be reviewing that material.

Just to give you some idea, our files are usually a minimum of 1,000 pages. Our panel members are usually reviewing a file that can go anywhere from 300 pages and up to boxes, but I would say that usually we're looking at files that comprise 1,000 pages, which members are required to read, know and study in detail—and they do it.

Ms. Scott: That's a lot of briefing, 1,000 pages; that's incredible.

Just for my own interest, too, you did bring up end-of-life decision-making and the different cultural groups and customs that we have to accommodate. Did you receive a large amount of complaints in respect to end-of-life and cultural—

Ms. Lamoureux: I think generally, in a number of cases, we have communication challenges that people are experiencing. Usually, I would say that for the health care professionals and the families that they're dealing with, their whole focus is to do right by that patient and by that patient's family in terms of the provision of care. But again, because in Ontario the diversity is so broad, sometimes they do run into difficulties with communication.

However, we haven't tracked as a board the particular types of complaints necessarily that are coming forward. We've just introduced, again, as Abby mentioned earlier, a new case management system this year, and I hope we'll be able to obtain better information that will enable us to address concerns better. This includes, for example, where the party is travelling from and what their specific issues are, and being able to break down by college the particular issues that we need to address. We haven't captured that data in the past, but we will be doing so moving forward.

Ms. Scott: That would be a very quick turnaround time that you'd need, right? Because if it's end-of-life care in an intensive care unit—

Ms. Lamoureux: Oh, I see. Yes, we do have a process to expedite. I know that last year we had one case in particular where we had to expedite a matter for that particular reason, and we did so.

Ms. Scott: So there's accessibility for the public. It could be a fast turnaround.

Ms. Lamoureux: Yes, there is.

Ms. Scott: Okay, that's good. Communications internally, then—anyway to do that.

I'll take another tangent here and refer to a newspaper article in the Owen Sound Sun Times from February 15: "Informing Public of Misdeeds Not Dental Group's Job." It was in reference to the Royal College of Dental Surgeons, about a dentist who was handed a suspension. The dental college issued no news release about the penalties and no notice was posted to inform the patients

or the public of the misconduct or the suspension. The registrar of the Royal College of Dental Surgeons of Ontario then suggested that there should be a central website where penalties involving all members of the 21 regulated health care providers should be posted. I take it that the College of Physicians and Surgeons and the Law Society of Upper Canada routinely post news releases about disciplined members on their websites, but not all the health professions necessarily have the same routine of posting members who have had suspensions or who needed to be disciplined. I just wondered if you had any comment. Do you think the government should have a central website so that people can have more accessibility to know if there are suspensions occurring? Some of the dentists in this article have continued to practise even though they were suspended, so there wasn't the follow-up. I just wanted to know if you could comment generally about more public access to this information.

Ms. Lamoureux: I can't comment. One of the hallmarks of our board is that we are to provide an objective, independent decision-making body with respect to professional members, the college and the parties. We make decisions within the confines of the current legislation. We're not a policy-making board. So I regret that I can't answer your question.

Ms. Scott: It was just generally about public information, because you discussed in your presentation about making discipline boards or complaints more accessible to the public, so it was kind of following that theme. I just wondered if you had any comment on whether it might be a good idea involving—whether it would be better for public access to know what professionals had had disciplinary action.

Ms. Lamoureux: No, I can't comment on that.

Ms. Scott: Okay.

The Chair: Thank you very much, Ms. Scott. We'll move on. Ms. Martel.

Ms. Martel: I wanted to ask about the mechanism for the public to know that they have a right to appeal. Is it the responsibility of the college to make a member of the public who is a complainant aware of the potential for a second-level appeal if they are unhappy with the college's decision?

Ms. Lamoureux: Yes. In the colleges' letters, when they issue a decision, they indicate that there's a right of appeal to our board.

Ms. Martel: Does your board have any mechanism or any obligation to ensure that's happening?

Ms. Lamoureux: Legal obligation? No.

Ms. Martel: Okay. I wanted to ask about the complaints—

Ms. Lamoureux: Sorry, Ms. Martel. I'm going to consult with board counsel in case I've misled you in any way. Do we, David?

Mr. Jacobs: I actually don't think that there's anything express, but if it was brought to our attention that a college wasn't doing it, I am assuming that we would say something unpleasant to the college about it.

Ms. Lamoureux: I'm glad I asked him.

Ms. Katz Starr: I do have regular conversations with my staff counterparts at the colleges, and we look at whatever administrative issues there might be. So we do try to keep some open communication as well, ensuring that if we have new processes, they're brought to their attention, and the college tells us issues that they might have. Again, our presence in terms of ensuring that their letters always contain my name and the right to request a decision is always there, and we've talked about the wording of that. So we do have an informal way of managing that expectation.

1120

Mr. Jacobs: The statute provides that the college complaints committee has to provide the parties with notice of their right to request a review from the board. I suppose if they don't, if somebody later wanted to have a board review, we would take such a late request very seriously, given that we have an ability to extend time. But it certainly would be something the board would, I'm sure, comment about.

Ms. Martel: From the moment a complaint starts to be dealt with in a particular college to appearing before your board—I'll use a hearing instead of pre-conference—do you have any idea of what your averages are around timelines for people who are trying to use the system, trying to appeal?

Ms. Lamoureux: Abby, would you have numbers for the colleges? I can't comment on the colleges' process, but Abby might be more familiar with that.

Ms. Starr: I can't speak to how long it takes for a college. I can talk about our own process. But in terms of how long it takes a college to get through an investigation, it relies, I'm sure, relies on a number of different factors, including the availability of witnesses and information.

Ms. Martel: Sorry, I'm just referencing some material we have. In the legislation—I don't know, David, if you'll know this. Within each college, then, are there or are there not some timelines that are set out with respect to the time that it takes? Then, further to that, we were given to understand that HPRAC had made a recommendation or was thinking about a recommendation that would amend the health professions procedural code so that you could not make a request to the board for a hearing. So I wondered if you could comment on that, because the two seem to be tied in terms of timing and a college not meeting the timing that they were supposed to, I assume under law, and then how HPRAC thought that should be resolved, which was to put more of an onus on the college to comply with the timelines versus allowing people to have access to the board. I wondered if you had any views about that recommendation from HPRAC.

Ms. Lamoureux: No, I don't have any views about that recommendation. Again, we're not a policy-making organization; we apply the legislation. Until such time as the legislation is passed, I can't comment on that.

Ms. Martel: So the recommendations made by HPRAC in New Directions around this issue were done without any consultation with your board?

Ms. Lamoureux: We made representations around process to HPRAC because we were invited to, and we did so.

Ms. Martel: Was there any issue raised at the time from your board with respect to delays of cases—you know, that when they finally got to your board, they had been delayed for some time at a lower level—and how that could be dealt with?

Ms. Lamoureux: I can speak to our process currently. Under the legislation, investigations are required to be completed within a certain timeline. If they are not, the complainant has the opportunity to make an application to our board to look into that investigation. We have found in the majority of cases involving that particular section that our inquiry to the college usually gets the investigation back on track, if it is coming up for a decision shortly. I think in the history of the board we've only had to exercise our right to step in and take over an investigation on one occasion. In all other instances, those matters have been resolved.

I'm just going to ask, David, if you could add anything further to that.

Mr. Jacobs: Not really. The timeline for a college to dispose of a complaint is 120 days, which is a fairly tight timeline. So I'm not sure that all, or any, colleges actually manage to achieve that timeline. But as the chair said, the parties who are worrying about the length of time it's taking for a college to dispose of a matter can come to the board and request that the board in fact order the college to comply with the timeline or give the college a deadline or extend the timeline if necessary. Again, in the extreme case, the board can actually take over the investigation, and then stands completely in the shoes of the complaints committee, conducts a full investigation, and renders a decision. But I think the chair is correct that that's only ever happened once and the board has been able to deal with it by means of interim orders and so on. I notice that in the proposed bill, those powers of the board remain.

Ms. Martel: So the HPRAC recommendation around eliminating requests to the board where the complaint has gone on past 120 days doesn't appear in Bill 171? Is that what you're saying to me?

Mr. Jacobs: That's my understanding, yes.

Ms. Martel: Because, as you have just said to us, usually an intervention by your board, a phone call, will get things rolling again. If a complainant doesn't have that opportunity to even come to the board and raise that possibility, then some of those cases could just drag on and on.

Ms. Lamoureux: We've been satisfied with the results that we've experienced with our current legislative powers.

Ms. Martel: Okay. I just wanted to confirm that because I looked at it and I didn't really agree with the HPRAC recommendation and just wanted to know if you had had a sense of it. But if you're assuring us that it doesn't appear in the bill, then that's fine.

I wanted to ask about complaints again from the perspective of—and I don't know if you track this—a break-

down between college members coming forward with complaints and members of the public. We were given information that in 2005-06 complaints reviews—I think we had 356 new requests. Do you break down in any way, shape or form where that's coming from in terms of public members and college members?

Ms. Lamoureux: No. The gathering of statistics at a micro-level was not done. It will be done in the future but has not been done. So we actually don't have a lot of information to be able to provide you beyond the numbers as they stand. We do, though, get both. That certainly is the case. We do get both.

Ms. Martel: I assumed that. I was curious as to what that was and whether that was shifting; as the public becomes more aware of having rights, whether there were more public complaints that were being made versus member complaints. But I guess once you get a system up and running, you'll be able to track that and have some thoughts about that one way or the other.

Can I ask about the relationship between the college—I know you said that there's ongoing dialogue. Do the colleges, either a single one or as a group, have some specific concerns that they raise with you about board operations, timelines etc.?

Ms. Lamoureux: Actually, when I joined the board in late 2005, it came to my attention that the board had never met with the colleges, ever. I thought that was rather interesting given the public oversight requirement. So in October of last year I had a full meeting with all the colleges and their representatives to introduce them to the board, the vice-chairs, Abby for the first time, and our board counsel so that they knew where we were heading—much like the overview I provided to you—so they were aware of what our expectations were as an oversight body, to encourage that we have lines of communication open so that they could raise concerns with us as well, and to ensure that we're operating with the same commitment moving forward. We are going to have those meetings annually now, but on an ongoing basis we're encouraging discussions if a particular concern or issue arises.

The colleges take our decisions very seriously. It's my observation that if our decisions are well written and if we're providing appropriate direction, they do everything they can to comply with those decisions. So it's important that if there's a point of confusion or they feel they can't implement it—and I've encouraged them that even if they disagree with me, they're entitled to disagree with the board and its decisions simply because it opens up debate and discussion. It doesn't mean it will change the decision but the discussion is the important piece. So we are having those discussions.

As Abby indicated, it's important on a process basis that if someone has made a process error, as opposed to writing a series of letters and getting caught up in a bureaucratic nightmare, they pick up the phone and they say, "Do you know what? You shouldn't have done X." Sometimes we're getting, "Oh, gosh, you're right. I made a mistake. Let's fix it." Because that's in the best interests of the public we serve.

Ms. Martel: I don't think I have any more questions.

The Chair: All right. Thank you very much. Ms. Smith.

Ms. Smith: I just have one question. I do want to thank you for coming and providing us with such insight this morning. The one question I had actually stems from Ms. Martel's question about the length of time it takes for college decisions. There was some discussion about the length of time that it was taking your board. I know that some of it was addressed in the auditor's report of 1999, and I think you referred to more resources being given to the board in order to address those. But could you just speak to the issue of the length of time it takes for a decision to be reviewed and a decision made by your board? I recognize that when you spoke to Ms. Scott you talked about the thousands of pages, so there are reasons for some time to pass. But could you talk about why the process is fairly lengthy, but also whether or not you have had any progress in shortening the length for your decisions?

Ms. Lamoureux: Would you like me to address decisions specifically or the entire process at the board? I'd just like to clarify that.

Ms. Smith: Board decisions.

Ms. Lamoureux: Board decisions can take anywhere up to six months and sometimes longer, depending on—and that certainly, I think everyone at the board agrees, is much too long. We'd like to hit a lower target. We have established a performance target of three months. We're working very hard to achieve that goal. We're certainly not there yet. There are a number of reasons, such as the one I mentioned in terms of simply the length of file, the types of deliberations required in making a decision. Also, after a review there may in fact be further submissions made if a particular point arises or if the panel has requested further information. One of the steps we've taken is to ensure that all parties receive all information they're entitled to and have an opportunity to comment on that information.

In the deliberations that take place, we sometimes have difficulties, because our members are part-time, in being able to come together at the appropriate time and get the decisions out. So part of the education process, again, is ensuring appropriate support and education for decision-writing, support from board counsel as a resource where required to assist in that process, and ongoing support for our members to ensure that's done. Another thing we've done is provide them with laptops so that they don't have to come into the Toronto office; they can communicate with each other outside of that office as well. But, again, our decisions at the moment are taking longer than we would like and we're working very hard to reduce that timeline to address that.

Ms. Smith: Thank you. My understanding is, though, that the decisions were taking a lot longer than six months, maybe, two years ago, so you have actually had some success in reducing the time. Is that an accurate assessment?

Ms. Lamoureux: Yes. We have been able to reduce the time, I would say, by probably a month or two. The

time I referred to earlier was the time it took for the length of a review, from the time of a request to a review. Since I've joined we've managed to reduce that by an additional three-month time, and we are reducing the time to issue decisions as well. But we have not achieved the three-month target that has been set as a performance target, and I hope we are able to do that, keeping in mind that for those matters which we feel need to be expedited that I mentioned earlier to Ms. Scott, the issues where we have certain health care pressures or dealing with registration matters, we'd like to hit a shorter timeline.

Just recently, this month, we were able to accommodate a request of a health care professional who I think is actually moving out of country and needed a review done very quickly in order to accommodate a request. With the consent of all parties, we were able to hold that outside of the normal review week; we had members who volunteered their time outside of that week. And we'll have a decision issued, I think, within seven days to accommodate a business need.

Ms. Smith: Thank you.

The Chair: I believe neither of the opposition parties has any further questions, so I would like to thank you for coming here this morning and bringing us this information for our committee. It's very much appreciated.

Ms. Lamoureux: Thank you very much.

The Chair: The committee is recessed until 1 p.m.

The committee recessed from 1134 to 1304.

YEE HONG CENTRE FOR GERIATRIC CARE

The Chair: Good afternoon, ladies and gentlemen, and welcome to the standing committee on government agencies. I do apologize for starting late. We're going to begin, I believe, with the Yee Hong Centre for Geriatric Care, Ho Lai Oi Wan Centre, Amy Go. Welcome to the standing committee. You have 30 minutes in which to make your presentation. If there is time, then we will entertain questions from the various caucuses, leaving equal time.

Ms. Amy Go: Thank you very much for this opportunity to present to the committee. I'm Amy Go. I'm the executive director of the Yee Hong Centre for Geriatric Care. I also chair the board of directors of the CARE Centre for Internationally Educated Nurses.

Yee Hong Centre is a geriatric care centre. We provide a continuum of services to primarily Chinese-speaking seniors, but we also provide support to seniors from other cultural backgrounds. We are probably the largest non-profit geriatric care centre in Ontario. Through Yee Hong, I have worked with primarily internationally educated nurses. They form the majority of our workforce.

In the year 2000, we worked together with St. Michael's Hospital, Kababayan Community Centre as well as the Woodgreen Community Centre to form an agency called CARE Centre for Internationally Educated Nurses. The reason we did that was because there is a

critical shortage of nurses, which I'm sure you're aware of, from the perspective of providers, but we also know that there are many, many internationally educated nurses in Ontario who are experiencing tremendous difficulties in getting their licence in Ontario. That's why we formed this agency: to assist them in that licensing process and to secure employment for them.

Since we opened our doors in the year 2000, we have assisted over 500 nurses in getting their licences and who are now gainfully employed in the health care sector, some of them at Yee Hong Centre. We have actually gained a reputation as probably one of the most successful bridging programs in Ontario in the eyes of the Ministry of Citizenship and Immigration.

Working so closely with these nurses, I've really come to understand the barriers that they face, at a personal level and also at a systemic level. I'm sure you are very much aware of language and cultural barriers, but there are many other barriers, such as the lack of information and understanding of how the system works, the complexity of the rules and regulations, the inconsistency in interpreting those requirements, the lack of financial resources, and also the lack of support in navigating through the very complex system of licensing. So these barriers are tremendous, and I really admire their courage and their perseverance to reach their goals. After knowing all these barriers, I also have come to understand the importance of having an independent appeals process so that we can ensure that the process is accessible, that it's fair, that it's equitable. I also understand that the appeals body needs to have the tools and the power so that we do have an accessible and equitable process in place for everybody.

Let me talk about the importance of having this independent appeals body. In fact, both Yee Hong Centre and CARE Centre presented to the provincial committee on Bill 124, which is the Fair Access to Regulated Professions Act. We both argued that there is an important role, that an appeals process has to be separate and not just an internal review, so that all applicants for professional licences will have a fair chance of getting their licences. On the other hand, we also hear many arguments against this kind of independent appeal. Many professionals, including nurses whom I work with, are arguing that they are the experts in the field, they have the knowledge, and that lay people don't understand that process; lay people cannot really assess the decisions made by the regulatory bodies. They also have put forward arguments that individual complaints should be addressed by the regulatory bodies and not by an outside person or third party.

I'm sure you have heard all these arguments, for example, in our police services. I'm very pleased to know that the Ontario government actually spoke against these arguments when they introduced Bill 103, which amends the Police Services Act and establishes an independent police review director and a public complaints process. The rationale for Bill 103 and the reason for having an independent appeals process are the same: because we

want to protect the public interest—the public interest has to be upheld—and to ensure that the professional organizations are held accountable. It's so important that these health care professionals are governed by legislation, because they are critical to our health and well-being. If they are governed by regulations, by legislation, rules and boundaries, the same argument can be made that we need to have a government agency to oversee that they are not out of bounds.

1310

Now I come to some specific recommendations to improve this whole accessibility process. First of all, you have David and Goliath. Many of these internationally educated nurses don't know about the appeal process. Even if they know, they can't tell the difference between a review and an appeal. They have never been to a hearing room; they have never, ever made a presentation to a committee of any sort; and many of them don't even speak the English language that well. So it's a tremendously anxiety-provoking experience for them to go through this appeal. Then, when they go through that process, they are usually on their own. They don't have the resources. Don't forget that many of the CARE clients are on welfare. They have to apply for subsidies to even go through their courses in college to get their licence. They don't have the financial resources to hire a lawyer. So when they go to the hearing, if they so choose, they are facing the college with its Bay Street lawyer. It's a very intimidating process. I think the Health Professions Appeal and Review Board is trying its best to ensure that there is fairness, but the onus should not be on them, because they have to remain impartial, they have to remain objective. So I think it is critical that we have access to legal counsel for these individuals so that we don't have such an imbalance of power between the two parties. We have that system for criminal justice. There's no argument why we shouldn't have the same access to this kind of support for these individuals when they come before an appeal board.

The next issue I will talk about is the power of the appeal board in terms of ensuring that the person who meets all the requirements—right now, if they meet all the requirements, the appeal board has to find impropriety on the part of the regulatory assessment committee in order to exercise the power to order that the regulatory bodies would process and ensure that the appellant has the chance to meet all the requirements. But I think what I would try to say here is that it is very difficult to prove impropriety, it is extremely difficult, so I think we have to lower the bar a bit. We have to make sure that the board has that power so that it is easier, ultimately, for the person to get their licence.

The last point I want to make is about the newly formed, or to be formed, fairness commission that is established as part of Bill 124, the Fair Access to Regulated Professions Act. The fairness commission is a very welcome move from the perspective of community groups, including the Yee Hong, CARE Centre and many other advocacy groups. But because the Health

Professions Appeal and Review Board has such a wealth of information about the barriers that these individuals are facing when they try to get their licence, there is no reason why we cannot pull the two parties to work more closely together so that the information can be shared and so that ultimately the fairness commissioner, in his or her role to monitor that licensing process, can ensure and also recommend that systemic changes be made in the licensing processes.

Actually, I would also like to see the Health Professions Appeal and Review Board as well as the fairness commission—I know that's outside of its jurisdiction—have even more open dialogues and regular reports to the community groups, dialogues with the community groups, consultation with community groups so that we can have input, ultimately, on the systemic changes that would make the process a lot easier, more accessible and more fair for the applicants.

That concludes my presentation.

The Chair: Thank you very much. We have about five minutes per caucus. In this round, we will begin with the official opposition.

Ms. Scott: Thank you very much for appearing here before us today. I have to tell you that I had not heard of the CARE Centre before. I think that's wonderful. I was a nurse before I was able to achieve elected office. I come from a rural area, so we don't have as much exposure to newer Canadians coming in, but I did work in Toronto for a short time and was exposed mainly to Filipino nurses who came over from the Philippines.

When they come over, would you mainly deal with the types of nurses—how are they qualified? Are there many refresher courses?

Ms. Go: Since 2005, the College of Nurses of Ontario has changed the rules: You have to have a baccalaureate degree in nursing in order to get a licence. That really changed the scene for internationally educated nurses because they have to meet, first of all, that bar. Even from the Philippines, some universities are considered equivalent, some are not. That's why it's one area where we see inconsistency in terms of interpretation, because there is a lot of need to ensure that the prior learning assessment is done in an equitable manner and is based on evidence. Right now, there isn't really a real gauge, evidence-based research, in terms of prior learning assessment to really tell what equivalencies we should consider here in Ontario. So that's one whole area, a barrier that they are facing.

On top of that is language. In terms of the College of Nurses, there is a list of countries, and if you're from this country, you don't have to go through the language assessment. We all know they are educated in English in the Philippines, but they're not on that list. Other places are on that list and we don't know, in terms of the arbitrariness, what country goes on that list. They have to meet that additional language barrier, so that's another thing. Of course, they also have to meet the practice requirements and all those other additional things. So there are many, many barriers that they face in trying to

get their equivalency and in trying to get their accreditation assessed.

Ms. Scott: Do you see benefit in—first of all, I'm hoping the list is evolving and is being updated. I can be hopeful that it is, with input from different people.

Is there any value in going to the countries of origin themselves and qualifying before they come over to Canada? We hear a lot of stories that the expectations are very high, they come over and they can't work in their chosen field.

Ms. Go: Absolutely. Many, many immigrant settlement agencies, including CARE and Yee Hong, believe that there has to be a lot of pre-migration information, resources and support given, so that the immigrants, the potential applicants, have the knowledge, have the information about how the system and the licensing process works. Of course, we still have to make sure that the process is fair and equitable. But I do believe that a lot more resources also need to be put in place in pre-migration information and support.

Ms. Scott: We'd certainly encourage that too, doing the pre-screening.

Ms. Go: Absolutely.

Ms. Scott: For the internationally educated nurses, do you know what percentage is Chinese, Filipino—

Ms. Go: Yes, I asked that question because of post-2005. In the past, actually, the majority of graduates from CARE were from the Philippines, but post-2005 really changed that. Right now, we still have people from the Philippines, some from India, some from eastern European countries and Iran, so it really depends. Now there is no one group that dominates. There are many, many pockets in the experience of CARE right now.

Ms. Scott: Thank you very much for your valuable input and recommendations. I appreciate that.

1320

The Chair: Ms. Martel.

Ms. Martel: Thank you for your participation here today on this issue and many other health care issues. I actually want to focus on the appeal process. Have you been to one of the appeals? Have you acted as a representative on behalf of someone who was appealing a registration?

Ms. Go: No. The people who come to CARE and are eligible for CARE services are those who are deemed eligible to write the exam. But because of who we are, we get calls. We get calls from people who have been denied, who have failed the exam, who have tried many times and are not able to reach their goal. They come to CARE in a panic. So if they are CARE participants, we are able to help them; we navigate the system for them. But those who come to us in a panic situation—unfortunately, because of our mandate, we are not able to help them, and that's where we see the cracks. They fall in the cracks. They have nowhere to go; they have no individual advocates; they don't know how to navigate the system. Even though I have not personally attended—nor would our counsellors, because our mandate is not to do so—we get calls from so many of them who have failed,

and in fact they are in a more desperate situation than those who are eligible for CARE services, because they have tried and they just don't know where to go.

Ms. Martel: I was interested in having a sense of how many of the regulatory bodies would come to the hearing with a lawyer, because that would certainly intimidate someone who was sitting there without a lawyer. The people who call you: Is that an ongoing experience that the majority—

Ms. Go: For the people who call us, the main thing is that they just don't know the process.

Ms. Martel: Okay. So they're not even at that point yet.

Ms. Go: They don't even know, yes, and they don't even get to that, right? My understanding is that usually, even people who are defending themselves in front of the appeal board are represented by legal counsel, but individuals are not; the appellants are not. That's my understanding.

Ms. Martel: I'm trying to get a sense of numbers. You could always work with a system, as we do, for example, for appeals before the WSIB, where you actually have a funded Office of the Worker Adviser and a publicly funded Office of the Employer Adviser. It's not necessarily people who are lawyers, but people who have a certain expertise.

Ms. Go: To help them navigate, yes.

Ms. Martel: Okay. That's it, Chair. Thank you.

The Chair: Ms. Smith.

Ms. Smith: Thank you, Ms. Go. Mr. Duguid has some questions for you, but I just want to thank you for being here and for all your great work at Yee Hong. I spend a lot of time with the Yee Hong folks in my long-term-care role. Certainly you do great work as well as CARE, and I'm familiar with WoodGreen and St. Mike's and the work that you're doing there, so congratulations. Thank you for sharing your insight with us. Mr. Duguid now has a few questions.

Mr. Duguid: Thank you. Again, I'll repeat that: As somebody from Scarborough, Yee Hong Centre in Scarborough does amazing work in our community. I thank you for the incredible job that you do. In Markham, you're responsible for providing that community with a great level of service.

My first question—I've got a few—is regarding your comments on the power of HPARB around requirements for licensing. I just want to see if I can get some clarification from you. I don't fully understand this entire system, but as it is right now, if HPARB makes a positive recommendation, they refer it back?

Ms. Go: Yes. I think the key thing is that HPARB has to show impropriety on the part of the regulatory body in order to order those positive actions on their part. That is the key issue, because it is hard to prove. How do you prove impropriety? How do you prove that they do that intentionally? I think it is difficult. From our perspective, it's: How do we balance that? How do we empower it so that you don't necessarily have to show that in order to effect a positive outcome for the appellant?

Mr. Duguid: I'm just looking at your presentation and I'm trying to maybe see if I can get you to be more specific on what power you want HPARB to have. Here, it appears that they should have the power to order that the licence be granted. Is that what you're looking for, that they have the power to order without it going back with a referral?

Ms. Go: They have to refer back. Again, I'm not a legal expert in this area. My understanding is that they have to refer back to the regulatory body and to order the regulatory body to ensure that the appellant has an opportunity to meet the rest of the requirements: to write an exam, let's say, now that they have met all the accreditation to allow them to write the exam and all that. But again, the key is that, in order to do so, they have to show impropriety. If they see that this person has met all the requirements in terms of accreditation, they still have to show impropriety on the part of the regulatory body, and that is the key. So by granting them—and they don't necessarily have to do that—then I think that is empowerment of the appeal board.

Mr. Duguid: So you're looking at not only the powers of HPARB to make an order, but also what they can consider at the very outset?

Ms. Go: Yes, that's right.

Mr. Duguid: The second question stems from that: Are you aware of recommendations being made by HPARB that have not been followed by regulatory bodies?

Ms. Go: Sorry, I can't speak to that. I don't have the knowledge about that.

Mr. Duguid: Okay. Final question: In terms of foreign-trained professionals, particularly nurses but others if you are aware of them, do they have knowledge of HPARB? Is this something that they've heard of before? Do they know that this option exists for them?

Ms. Go: No. I think that's another thing. It's important. That's why CARE plays such a critical role in supporting the individual through their licensing process. Now that the Ontario government has established the access centre, which is to provide information and advice to help individuals who may not meet the criteria for CARE, I would hope to see that the access centre will also make the role of HPARB more understandable to the participants, to the applicants. I do think that there is a general lack of information about the difference between appeal and review. We really have to make sure that the applicant—whoever—who comes to the College of Nurses or the college of physicians understands the whole process from the beginning till the end. And if they so choose, if they do need that, they do need to know that there is an appeal process as well. So I do believe that we do have to also provide that kind of information, and that has to be provided, of course, by the regulatory bodies, but I also prefer that other people can also do that, because I do believe that fairness and objective data and information can be provided by various community groups and HPARB outside of the regulatory bodies.

Mr. Duguid: Thank you for your information today, and thank you for your incredible enthusiasm. It comes right through in your presentation.

Ms. Go: Thank you.

The Chair: Thank you.

COLLEGE OF PHYSICIANS
AND SURGEONS OF ONTARIO

The Chair: I'd like to invite the representatives of the College of Physicians and Surgeons of Ontario forward.

Thank you very much for joining us and welcome to the committee. For the purposes of Hansard, I'd ask you to introduce yourselves. As you know, we have 30 minutes, and any time you leave will then be divided equally amongst the caucuses.

Dr. Rocco Gerace: Thank you very much. My name is Rocco Gerace, and with me is Dr. Patrick McNamara. I'm the registrar of the college and Patrick is the medical director of investigations and resolution.

As you know, the College of Physicians and Surgeons is the regulatory body for doctors in this province. We register doctors; we deal with complaints and reports about doctors; and, when necessary, we discipline doctors. We've had an extensive relationship with the Health Professions Appeal and Review Board. Indeed, according to their 2004 annual report, there were more matters dealt with by the board from the College of Physicians and Surgeons than all other health regulatory colleges combined.

1330

In my remarks today I'm going to try to cover four things. Firstly, I'm going to emphasize to you how valued HPARB is in providing an important role on behalf of all parties that appeal before them, especially the public. I'll relate some troublesome historic features and how recent innovations have dealt with those, and then I'll share with you one or two concerns with respect to some of the directions.

Let me start with the value. I think it's important to say at this point that HPARB is a valued component of the regulatory system in the province of Ontario. Indeed, this process is unique in Canada. It gives opportunity for parties who have concerns about various matters to be heard without expensive court proceedings, and this is especially valuable for members of the public. We believe that we have a right in Ontario as a medical profession to regulate ourselves, and with that empowerment has to come a measure of accountability and transparency. We all have to be accountable and we believe that HPARB helps us in demonstrating our accountability to the public.

One of the questions I would ask is, why is this process limited to health regulators and why doesn't this process exist for all regulators in the province? Indeed, Justice Thomson made that recommendation in a recent report, but this was not acted upon.

Historically, there have been problems with the board. In the past, they have been somewhat unresponsive to

input, slow, insular in their behaviour, with case delays occurring of up to two years. In some of these cases, doctors who potentially were a risk to the public were tied up in proceedings at the board and any attempt we made to discuss these issues on a general basis was rebuffed. There was simply an unwillingness to meet with us and address these issues. I must say that the changes that have occurred in the recent months, in the last year, have been very positive, and I give credit to the chair and the registrar of the board, who have been very receptive to talking to the college, to discussing issues, to understanding issues. While we don't always agree, and that's okay, the important feature is that we are talking about issues, and I think this is very positive.

In our submission we've outlined some of the recent concerns we've had with respect to the board, and I would preface my comments by saying that we're talking about them. So I see this as a work in progress.

One of the issues that concern us is privacy of information. As I've indicated, we are entirely supportive of being accountable, being transparent, but we have legislation that dictates what is private and what is not. Indeed, the changes that are contemplated in the legislation, Bill 171, continue to dictate what is confidential and what is not. We were concerned when we heard signals from HPARB that some of this information related to doctors was going to be made public. We think that if information is going to be made public, there should be a direction from the Legislature to indicate this, and this is not happening. So we would be concerned about this move. We would be concerned about complaints being lodged in order to obtain information and hope that the dialogue we have initiated will continue.

The second issue is around exercising professional judgment, and I say this in very isolated cases when there are experts that have already opined on a matter. I relate a case in particular of a clinical matter that was brought to the board. Some Internet information was brought to the board that had no basis in science, and this information was relied upon by the board to make a judgment. These are areas that we are talking about in general principles. I'm optimistic that we will be able to work out some of our concerns. I suspect that neither of us will be entirely happy with the resolution, but that may make it a good one.

Just to summarize, we support the concept of an arm's-length and independent appeal process and would again emphasize that we think this should be applied to all regulated professions. While there were concerns historically, these concerns have been addressed and we're pleased with the current direction of the board. We've left you with some current concerns that we look forward to addressing, but we look forward to collectively working with the board and others to ensure that the public interest is well served.

Those are my comments, and Patrick and I can answer any questions that anyone may have.

The Chair: Thank you very much, and in rotation we'll go with Ms. Martel, please.

Ms. Martel: Thank you for being here today. I want to focus on the recommendation that HPARB had made to HPRAC regarding changes in the act concerning the complaints, because their recommendation certainly was to consider prior complaints history when addressing the disposition of an individual complaint, and that HPRAC also concluded that a panel considering a complaint should have access to all relevant records and documents.

If I read this correctly, you've got a concern about that from the perspective of disclosure of personal information. Would that be correct?

Dr. Gerace: First of all, we are supportive of that change in the legislation. That change has been reflected in Bill 171. Our concern is that that is not public information. So our concern is, if that information is made public, is that not contrary to what the legislation says? If we're told to make all of that information public, we could do so, but the feeling is that there should not be an alternative route to make information public that is not contemplated to be public in the legislation. So we think HPARB should hear it, but we don't think that it should be heard publicly and we don't think, certainly, that it should be posted on the website.

Ms. Martel: Let me see if I understand this correctly. If an individual with a prior history of other indiscretions, or however you want to describe it—what you're saying is that that should not be made available to the public?

Dr. Gerace: What I'm saying is that currently the legislation does not allow that to be made available to the public, and we think that everyone should follow the same rules.

Ms. Martel: So if the rules were changed—

Dr. Gerace: They were not changed. Not even in Bill 171 is it contemplated that that information will be public. It remains private information.

Ms. Martel: Can I ask this question? How do you balance that against protection of the public, you know, with regard to making choices about a practitioner? How does the public make a decision, then, a reasonable and legitimate decision, about a practitioner if there's a prior history that they're unaware of?

Dr. Gerace: Currently in the legislation—and don't get me wrong. I'm not saying that it should not be made public. I'm saying that we should all follow the same rules. Should the legislation dictate that that information is public, then that's fine. My submission is that it should not be made public through another route when the legislation doesn't contemplate it being public.

Ms. Martel: It doesn't allow for that. Okay. So if it was clear that all colleges were following the same rules around that, then you of course would abide by that.

Dr. Gerace: We would think that HPARB should follow the same rules as we do, rules that are set by the Legislature.

Ms. Martel: Okay.

Ms. Smith: Thank you for being here. It's nice to see you again. I had some questions. One was just to follow up on what Ms. Martel was talking about. It's very murky for me, so I think I'm following up on what she

was talking about: the whole question around making information public. When I read your submissions, in contrast with what I was hearing—and I was trying to do both at the same time, so I'm not sure I got it all straight—you indicate that your concern is that they are going to be made public. Has this ever happened?

Dr. Gerace: I'm not sure that it has yet. This has been in discussions.

Ms. Smith: So this is a concern about a hypothetical that could happen.

Dr. Gerace: That is correct.

Ms. Smith: Okay; that I needed to know. Then, through Bill 171 we are addressing what information has to be given to the review panel, and your suggestion is that, even though that information may be given, it should not be made public in the decision. Is that your recommendation?

Dr. Gerace: That's correct.

Ms. Smith: Okay. Now, when we talk about history and the information of the history of the individual who's being reviewed, is it not relevant to know if there's a past history of—and I think this was what Ms. Martel was getting at as well—similar behaviour that's being reviewed in this case?

1340

Dr. Gerace: Certainly, and indeed the complaints committee considers that information. All information that the complaints committee considers is given to the board in the event of a review. We're not suggesting that they not see this information, because it is clearly relevant to the disposition of the complaint. What we're suggesting is that the legislation does not contemplate this information being public, and we think this should be continued through the appeal process.

Ms. Smith: Okay. Then I guess my question is, why the concern? If it has never happened before—the legislation doesn't contemplate it being made public—where is your concern arising around HPARB doing this?

Dr. Gerace: They told us.

Ms. Smith: Okay. Your second recommendation around the review by HPARB of other expert opinions: Isn't it true that at the college level you have public, non-medical people sitting on the review committees?

Dr. Gerace: Absolutely.

Ms. Smith: So why would they be in any better position to review an expert opinion than someone on HPARB?

Dr. Gerace: The expert opinion and the science is reviewed within the context of a combined public and professional panel. So when there are questions, the professional members of the committee are able to explain the issues in a way that is understandable, are able to share with the members of the public issues around how to interpret scientific data as it applies to medical care. I'm not sure that this expertise would exist as a matter of course on a lay panel at arm's length. So our submission is that, in the absence of that expertise, the judgment of a lay member should not be substituted.

Ms. Smith: Not to belabour the point, but most judges are not doctors and they often are asked to rule on medical malpractice cases. They look at expert evidence submitted by both sides in a case. I was a lawyer. I used to do some medical malpractice stuff, in a very junior way. I fail to see the difference between a judge's ability to review and someone who has been sitting as a member of HPARB.

Dr. Gerace: I'm sorry; I'm clearly misstating myself. It's not a question of reviewing expert reports; it's a question of reviewing raw literature, so unsubstantiated literature being presented is being reviewed and interpreted. I fully support the concept of experts providing opinions to the board. Experts help us in deliberating over some matters, and I think that's an important component of the process. So I apologize if I'm misstating. It's not expert reports but actually reviewing scientific literature in its raw form.

Ms. Smith: Do I have time for one more?

The Chair: Yes.

Ms. Smith: Okay. Just to end it on an upbeat note, you did say that there have been changes, and I think you've indicated in your report that the co-operation or discussions with HPARB—you have "excellent exchanges of information which are helping to create more opportunities to significantly improve our mutual processes." I just wanted you perhaps to elaborate. I think you referred in your submission to the fact that the change in direction through the new chair and the registrar has really been an important element in the improved relations between your college and HPARB, and you also, almost verbatim, said what the chair said this morning: Even though you may have issues where you don't agree, the discussion that ensues around those issues is very helpful for both sides. Could you just elaborate on that a little bit, please?

Dr. Gerace: I'm heartened to hear that perhaps HPARB feels the same way as we do in respect to these changes that have occurred. I think it important that issues at a higher level be discussed so that we understand each other's position; we understand factors that lead to positions. This is happening now. We've had two meetings. Further meetings are scheduled. There's a real interest on the part of HPARB to understand our complaints processes, so we've arranged for further meetings to occur. We've heard rationales for some of the issues that have been of concern to us. So it's working. I think it's a very positive relationship, notwithstanding that, when it comes to the actual case, we are sometimes not in agreement. But discussing it on a broad scale I think is important, and it's working.

Ms. Smith: I wouldn't expect that you'd always be in agreement with someone who's reviewing what you do, so that's great. Thank you very much for being here today.

The Chair: Ms. Scott.

Ms. Scott: Thank you very much for appearing before us today. Trying not to get too mixed up in the two conversations that happened before, when you gave the

example of HPARB reviewing a decision where the complaints committee obtained expert opinion, found the physician did not meet the standards, and then HPARB accepted an expert opinion submitted by the physician—just to use that, if that's going on with HPARB right there, is there place for a rebuttal, to say, "That's not considered an expert opinion, in our understanding, and that's why we chose the other"?

Dr. Gerace: The actual process is that the college is not a party to complaints reviews. We are there to provide information. I suspect that the doctor's counsel would probably raise that issue if they were likewise concerned. So there is that opportunity. Again, I've not been to a hearing.

Patrick, do you—

Dr. Patrick McNamara: I think that's correct. I think that if the judgment is substituted and the matter is sent back, then it just is a long delay, and in fact you could anticipate endless ping-ponging related to experts, of course, going back and forth, and the next one and the next one and the next one. I think there's ample opportunity for both parties, when the complaints committee is reviewing the matter, to provide expert opinions, if they so wish. Sometimes they surface at an HPARB hearing, when there was ample opportunity to provide it to the complaints committee. The expert opinion may have little or no value, depending on the substance of it. But that's our concern: that there really is almost essentially a re-fighting of the complaint all over again, rather than looking at the reasonableness of the decision or the adequacy of the investigation.

Ms. Scott: When the appeal has been heard and then it's ping-ponged back and forth, is there a time limit? You mentioned one case of up to two years that a decision has been—

Dr. McNamara: There is no time limit.

Ms. Scott: Would you consider that there should be some change in the time format for response, so that the lingering doesn't go on? I don't know if it happens in very few cases.

Dr. Gerace: The two years is historical, and I think it would be our view that, more recently, cases move much more quickly. Some of these cases are fairly complex, so I'm not a fan of time limits necessarily but that things move quickly if they can.

Ms. Scott: Okay. Just one last quick question: Is there any percentage of agreement or disagreement with HPARB?

Dr. McNamara: About 25% of our decisions are appealed to the board, but only around 5% of that subset are sent back for a new consideration or a new decision by the complaints committee. So they generally are supportive of the committee's decision.

Ms. Scott: Okay, good. Thank you very much.

The Chair: Ms. Martel, did you have any further questions?

Ms. Martel: I don't know that I want to go over the same ground again. I'm becoming more and more confused, but maybe if I read it again, it will become clearer to me.

The Chair: Ms. Smith?

Ms. Smith: We're done.

The Chair: Okay. Thank you very much for appearing here before us today.

Dr. Gerace: You're very welcome.

ROYAL COLLEGE OF DENTAL SURGEONS OF ONTARIO

The Chair: I believe we have representation from the Royal College of Dental Surgeons. Good afternoon, and welcome to the committee. For the purposes of Hansard, I need you to introduce yourself. As you know, there is an allotment of 30 minutes. You may use however much time you want of that, and any time remaining will be used by the caucuses for questions.

Mr. Irwin Fefergrad: Thank you very much for inviting me. It's a pleasure to be here. My name's Irwin Fefergrad. I'm the registrar of the Royal College of Dental Surgeons of Ontario, which has been the regulator for the dental profession since 1869, although clearly I have not been employed for that length of time with the college.

I thought I'd give you a touch of background about myself, because I think I might bring a bit of a different perspective. I'm not a dentist; I'm a lawyer. I practised in private practice for 27 years before I joined the college. I'm certified by the Law Society of Upper Canada as a specialist in health law as well as a specialist in civil litigation. I tell you that not to impress you—it impresses my mother—but because much of what I say probably is coloured and cultivated in a good way by that background.

1350

I have to tell you that structurally and institutionally, HPARB is a wonderful institution. It's an institution that our college supports in its entirety—and supports the work that it does. It provides access to the public and to the member—or an applicant, in the case of registration—without any bureaucratic impediment, without barriers. It's a user-friendly process, as it should be.

One of the things we do, as you've been told by my colleagues and will be told by other colleagues that are coming, is we have to be accessible—easily accessible; no-barrier accessible—to complainants who wish to access the process, and we are. The statute, as you know, makes it very simple to lodge a complaint with the college, and it should be equally simple for anybody who's in the process to review/appeal a decision of a complaints committee, and the act does that. HPARB does, in my view, a very special job in making sure that any applicant, anyone seeking a review, is given not only full respect, but is given an easy time.

Likewise, in appeals from the registration committee, where predominantly the appeals will be from foreign-trained applicants, it's important that that process be open, transparent and accessible.

From the points of view of the participants of the proceeding, there is a sense of transparency and fairness

that's very important. From the college's perspective, it's equally important to have this overseer body. We look very carefully at the reasons of HPARB in its decisions. It's reasons are educational to our panels, to our profession, and frankly to the parties to the proceeding, especially the one who's perceived to be a losing party. We use the decisions of HPARB as educational vehicles in our magazine. We do it on a no-names basis because the act requires confidentiality, but the lessons are profound.

I don't know if you've had a chance to look at some of the HPARB decisions. I didn't cherry-pick; I said to staff, "Hand me something I can look at when I'm there," "there" being here. The decisions are lengthy. They're not crafted on the back of an envelope; they go on anywhere from six to 20 pages. They outline what the case is about. They outline what the record of the investigation consists of. They outline what it is that was at issue before the complaints committee. They outline what it is that the committee found: What were the issues? Who did the committee believe? Why did the committee believe somebody on a certain point? And then they dissect each one of those.

It's a very detailed exercise that is an eye-opener for our panels. It keeps them accountable. As I say, it's a learning experience to the dentists in this province who need to know what an overseer body that doesn't have any professional on it has to say about the complaints process. It's very critical and they do a good job of it. At the end of the day, the committee makes its decision, agrees in part with the complaints committee or doesn't, and sets out its reasons as to why.

I think it's important to understand that it's not just a case of HPARB doing a review and deciding yea or nay. In our experience, every decision we've received—and they've not all been favourable—has an educational component. I have not heard from participants at the proceedings, the dentist and the complainant, that they have had short shrift at the HPARB level.

I agree with my good friend Dr. Rocco Gerace, who says there is a fresh wind at HPARB. Any organization must have at its helm a chair or a leader who has some vision and who has an ability to be comfortable, to meet and discuss issues. Certainly that has been the case with Linda Lamoureux, who is the current chair, and with the registrar of HPARB, who is very accessible and direct.

If you were to ask me, in anticipation, what could be the improvements, there are two that come to mind. There may be others, but two immediately come to mind.

(1) Because the decisions of HPARB are so vitally important, and because we're dealing with a legislative framework, and because I suspect that not everyone in HPARB—thank God, I would say—is a lawyer, I think that the decisions of HPARB or the advice that HPARB receives should be legal advice in every case, just to make sure that the issues that are covered off are approached in a way that addresses the legal concerns that are in the statute.

(2) I think—and HPARB may be working on this—it would be very helpful for it to have a central database so

that anybody could access its decision-making. Why did it decide in such-and-such a case on such-and-such an issue this way? What were the competing values? What were the facts in that case? We're in an environment of transparency and openness and it seems to me that with that theme it would be important to let everybody know the decision-making that HPARB has undergone. I suspect the reason it isn't in existence is because it's a costly resource. I don't know that, but that's my suspicion.

I'm happy to take questions. I just wanted to lend my voice to those who say that in health, of the 23 regulators and 21 colleges, we have not only a unique appeal and review board but one that works and is a model that should be maintained and not tampered with, in my view.

Thank you. I'm happy to take any questions you may have.

The Chair: Thank you very much. I think we go to the Liberal caucus first.

Mrs. Mitchell: Thank you very much for coming and making a presentation today. It will be very hard to follow up your presentation. Clearly, what we heard from the government side is very much high praise for HPARB.

You made two recommendations and I wanted to expand a bit on that. I wanted you to speak specifically on how the Royal College of Dental Surgeons of Ontario uses their decisions. You talked about a central database and you talked about the decisions made and that they should be rendered as legal advice. But I would like to hear a practical application of how you use it within your college.

Mr. Fefergrad: Every decision that comes from HPARB is circulated to our complaints committee and to our staff. Our staff learns from it. There is at least one person who will offer a commentary that might say, "You know, we got this one wrong," or, "We got this one right and here's why."

We also circulate it to our panel members. We have nine members of the complaints committee, three of whom are public members and six of whom are dentists, and they sit in panels of three. They work in a vacuum. Unless they really know what is happening with their decisions, they won't get better at it or they won't continue to be good at it. So we use the decisions of HPARB, which are very lucid and very clear, to remind our panels, in future cases, if they've erred in one, that they learn from it and do not do it again.

From a staff perspective, we get reviewed by HPARB on the quality of the investigation, the adequacy of the investigation. That's a very important measuring stick, because nothing is more frustrating to a complainant or to a dentist than to find we have shortchanged somebody on an investigation. Frankly, the best review is an independent body like HPARB to say, "We've looked at the materials. We've looked at your disclosure. It's okay," or, "It's not okay. Maybe you should have interviewed this person," or, "Maybe you should have obtained that record." It's a very sobering kind of vehicle that we need. That's how we use it.

1400

It would be even more helpful if there were to be a central database of all decisions of HPARB, not only of our college. There would be, I think, a higher level of learning, a higher level of predictability perhaps. I think the central database would help. The legal advice to HPARB—in those few circumstances where they might get it right but they word the decision in such a way that might be a little fuzzy or a little contrary to statute, independent legal advice would help. Every college, at the discipline level, has the ability to have independent legal advice. Why? So that the discipline panel, the discipline committee, won't get into trouble. The independent lawyer is not making the decision. The panel is; the people who are empowered are. But the lawyer is helping to frame the decision into legalese that will be understandable and stand the test.

Mrs. Mitchell: Just to add a bit further on that, you talked about the decisions that are made and that it become legal advice. We also talked about composition of the board; we had a great deal of conversation about the composition. Are you looking for laymen and that type of thing? You talked about a vacuum for dental surgeons. Do you see that that gives multi-practices, I guess, or multi-experiences of life? What is it that you're looking for in the composition of a board?

Mr. Fefergrad: No, I'm very happy with—the board's composition, I think, should be as it is, devoid of the professionals who are involved in the appeal. I'm suggesting that, at every hearing, there be available to the board independent legal counsel. I'm sorry if I wasn't clear; I apologize.

Mrs. Mitchell: Thank you very much for clarifying that point. I really do appreciate it.

One of the concerns that we did hear addressed in the morning was that sometimes the process can slow down decision-making. I wondered if you wanted to share some of your experiences. I know that the board now is under a new vision, and you certainly spoke to that. But if you can talk to me about how the changes have happened and how you found it in the past.

Mr. Fefergrad: I wasn't so concerned about the time element then as I was about the lack of accessibility. I think time is a funny thing. People are busy and they want to get it right and they're going to do it right, and that's going to take time. All my communication with HPARB—and there has been a lot of it of late, in the last year or so—tells me that there's a real attempt to improve on churning out decisions a little faster. I'm not fussed about the time and neither is my college.

Mrs. Mitchell: Would you say generally that it has improved, though?

Mr. Fefergrad: I think it has improved, yes.

Mrs. Mitchell: You have seen an improvement. And you did talk about the vision, how you feel that there's strong support of the vision, of the direction of it, where they want it to go, how they're going to get there?

Mr. Fefergrad: No doubt.

Ms. Smith: Thank you very much.

The Chair: Ms. Scott?

Ms. Scott: Thank you very much for appearing here before us today. I didn't use your name but I actually quoted from the article in the Owen Sound Sun Times this morning, with the headline "Informing Public of Misdeeds Not Dental Group's Job." In it, I believe you called for one central website where penalties involving the members of the 22 regulated health care providers should be posted. Do you remember?

Mr. Fefergrad: I don't believe everything I read in the papers.

Ms. Scott: It's quoted in here; I just wanted to verify that that was the general direction.

You mentioned one central database where there's a description of why decisions were made. So you want one central website that says what penalties for the 21 regulated health care providers, and then you were also saying that you wanted a central site where there's the reasoning for the decisions that were made for HPARB.

Mr. Fefergrad: Two quite separate issues. The reporter was fussed because he didn't get a personal press release. I told him that our community in Ontario probably has 39 official languages and it's not our responsibility to issue press releases. But, that said, certainly in the discipline area it makes a lot of sense for the public, I think, to be able to access central databases to find out what are the terms, conditions and limitations on their health practitioner's certificate, if there has been relevant history that's on the public portion of the register. I think we're moving in that direction. I think Bill 171 addresses it. With respect to discipline hearings, Bill 171 is going to require all of the regulators to have a central database for each of its members. My point to the reporter was that sending out—no offence to the Globe and Mail, and I subscribe to it—a press release to the Globe and Mail isn't necessarily going to reach the public that might be the patient base of a particular dentist. I suggested that there might be an easier way to do it through a central registry with the ministry, perhaps.

But they are separate issues. With the HPARB matter, I'm simply suggesting that in order to have an understanding of the consistency or the thinking of HPARB across the 23 colleges, a central database would be useful. We at our own college now, frankly, do that for the HPARB decisions so that we can see where it's going, where its social policies are going, so we can be attuned to it and honour it, respect it.

Ms. Scott: Okay. Thank you for clarifying that. We are talking about public accessibility to information, so we're all talking from the same page. I'm happy to hear that you have a good working relationship with HPARB. Just with the database that you mentioned, with the reasoning for their decisions, are you saying everyone should access that or just the—

Mr. Fefergrad: Sure. Yes, of course. Why not?

Ms. Scott: So all the public should access that. Because you have a legal background, I was just going to ask you, do you see any privacy concerns or issues with that?

Mr. Fefergrad: I don't, because the Legislature doesn't. The Legislature has the HPARB decisions as being available and open. I think the issue that was discussed before as to relevant history is a touch of a different issue. My concern on that is this: Suppose you were a complainant against the health care provider five years ago. Whatever happened in that complaint, I'm not sure that you would want to have your name trotted out, without your knowledge, in a public portion of a relevant history. So from my perspective, I think what's important is the relevant history, but not necessarily the detail of a patient's name etc. That's really a decision for the Legislature to make.

Dr. Gerace was quite right. The Legislature, in the current iteration of the Regulated Health Professions Act and in Bill 171, which I think received first reading on December 8, addresses confidentiality, addresses secrecy, and draws a line and says, "At a certain point in time when there has been provability, when there has been some decision based on evidence, that could be public or should be public." Prior to that, the Legislature has said, policy-wise, that the fact of a complaint in itself may not be enough to become public; it may be damaging to a health care practitioner's reputation. That's been a policy decision. So the Legislature says in the statute that if a committee decides that a member, a dentist in our case, requires some courses, that is not necessarily going to be in the public portion of the register, and certainly the patient's name wouldn't be on the public portion of the register.

1410

So I think we need to be sensitive about what it is that people need in order to decision-make appropriately. In the case of HPARB, they likely need to know the history. They need to know what the nature was of the previous complaints. They don't need to know who the complainant was and they certainly shouldn't be getting a relevant history, in my view, that the committee hasn't had. It's an issue because a complaint is a one-patient activity. So if you're a complainant, the complaints committee needs to make a preliminary determination, based on the investigation, whether there's some merit to the complaint. If they say that there's no merit to the complaint, their previous history is not going to make that complaint any more meritorious. So it's critical to understand that when we talk "history," relevant history is important, and relevant history to where the particular complaints panel of the day is. It's a tough subject.

Ms. Scott: Thank you.

The Chair: To Ms. Martel.

Ms. Martel: That's probably where I want to pick up because you've talked a lot about HPARB and its importance and you've been very supportive. So I guess my question would be, why not be supportive of a request that would talk about the history of the practitioner involved if HPARB was looking at a review? You've been supportive of all the other elements of the board, so what's the dilemma with that one?

Mr. Fefergrad: I have no dilemma with relevant history. I have a dilemma with history. I wouldn't want a

history that's not relevant to what's at hand to be the subject matter of mischief or of taking HPARB on a tangent. There are probably procedural ways to deal with it. There are probably ways to develop procedural rules whereby somebody at HPARB could review the history and make a determination as to what is relevant to the particular complaint. But if it is a case, for example, on fraud, I'm not sure that a five-year-ago example of a broken crown is relevant to the matter before HPARB at hand.

So I'm supportive of HPARB getting all the information it needs to continue to do its fine work. I'd be much happier if it had some process to review the history and make a determination of what it thinks is relevant. It does it now with disclosure in some sense. We, for example, provide disclosure and we say, "We're giving you this. We think that this may be harmful, or we think it's not helpful for you to disclose this psychiatrist report to the world at large," and they would make a decision on how they'd want to treat it. So I would support giving HPARB that same kind of ability to have the history and then determine on its own what is relevant. I do not support, though, giving the full history and having that automatically be exposed without somebody taking a look at it to see that it's relevant to what's at hand.

Ms. Martel: As I listened to the presentation by CPSO, my understanding was that HPARB makes that a practice now, to request a complete physician history. Maybe I misunderstood him, but I'm reading from his page 5 and it seems to suggest that. Is that what happens with your college now? Following that, has there been a disclosure of relevant information that would lead you to have a position that, "We should discontinue that practice of providing a complete history"?

Mr. Fefergrad: They ask, and my assumption is that in asking that there are two answers and one of them may not be so pleasing to HPARB. We're in discussion. I take the view that they're not entitled automatically to the full history. They're certainly entitled to relevant history that the panel would have seen. They're entitled to everything the panel would have seen. I suspect that with goodwill we'll develop a mechanism where there can be a review of, as I said before, the history to determine what is relevant.

Ms. Martel: So is this a new practice?

Mr. Fefergrad: It has not been developed yet. We're struggling in this wind of discussion and change.

Ms. Martel: Is it in place with some colleges and not others, then?

Mr. Fefergrad: I can't speak for other colleges. I don't know.

Ms. Martel: Okay.

Mr. Fefergrad: I have been resistant to giving a full history just upon request.

Ms. Martel: So, as you see it, the amendment that's going to be made under Bill 171, because it would limit or restrict or put parameters around what's being requested, is a better way to do it rather than full disclosure.

Mr. Fefergrad: I believe so.

Ms. Martel: And that will probably have to be done by regulation, I would suspect.

Mr. Fefergrad: Probably.

Ms. Martel: Okay. You talked about, and correct me if I'm wrong, that at every hearing—and I'm assuming that's board hearings—independent legal counsel should be available to board members who are—

Mr. Fefergrad: Yes.

Ms. Martel: I never thought to ask this to the board when they were here, but does counsel now have that opportunity to provide that if the board requests the board's own counsel?

Mr. Fefergrad: I don't know. I would assume yes, but I don't think that's necessarily good enough because I know that with our discipline committee, where there aren't lawyers, where there are lay people and dentists, they may not know what they don't know and there may be some legal issues that they miss or there may be some way that they structure their decisions where they might not get the legalese right. So it's easy if they're asking for help; that's an easy one. It's when they're not sure or they think they're okay and they're not okay. It creates some anxiety if, for example, there is a misstatement of what the law is or what the case law is. It's just a good idea to have all decisions quickly vetted—some will take a little longer than others—for legalese, not for the appropriateness of the decision or for the guts of the decision. Journalists do it; they give stuff to an editor.

Ms. Martel: That would probably be my concern, then, that the process you're hoping is more for lay people so that lay people can participate starts to become more and more legalistic. We've heard concerns already about people saying that if it's a college matter and a complaint from a member of the public or, as we've heard from the nurses before, coming to a hearing and there are lawyers there already is a very difficult issue. I'm not sure that the process would be less intimidating if you come and you have a sense that there is an independent lawyer there, even though you're assuring people that he or she is not there for one party or another. I just think that if it's a public process and there's a hearing and you've got a lawyer there, it just ups the ante for everybody.

Mr. Fefergrad: I don't think so. It's the only thing we're going to disagree on. I've been to HPARB and I've been at other discipline hearings at other places, and it's really a question of the personality of the lawyer, how the board uses the lawyer. In a perfect world with a good lawyer and a good panel, the lawyer shouldn't be noticeable; the lawyer is there as a resource and is not there stirring the pot or is not there actively involved; but is there as a resource.

Frankly, it may be that the lawyer doesn't have to be present. It may very well be that the simple solution would be in most cases to have the decision sent off to the lawyer just to review. It's safe and I think it gives an element of assurance that at least the legalese is covered. I don't mean "legalese" in terms of complicated lan-

guage; I mean “legalese” to make sure that it’s right within the context of the jurisdiction and mandate of the statute.

Ms. Martel: Thank you.

The Chair: I think that concludes the questions, so thank you so much for appearing here today.

CAROL KUSHNER

The Chair: I’d now like to ask Carol Kushner to come forward, please.

Welcome to the standing committee.

Ms. Carol Kushner: Thank you.

The Chair: As you know, we have 30 minutes. You can determine how much time you put on that and how much time you leave for questions.

Ms. Kushner: I want to begin by thanking you for the opportunity to participate in this consultation. I’m going to try not to take up more than about five minutes of your time.

1420

By way of introduction, my name is Carol Kushner. I work as a health policy consultant and media commentator on health issues. I’ve co-authored two bestselling books on health policy and numerous articles focused on improving the quality of care and ensuring that Canadians maintain access to care based on need rather than ability to pay. In other words, I’m very interested in how we go about protecting the public interest, and I believe that HPARB’s role in providing an avenue for appeal and review of decisions made by regulatory bodies representing the health professionals is a very important aspect of public protection.

I looked at the standing committee’s review of HPARB as an opportunity for me to address a particularly troubling issue, and that is the fact that some physicians in this province are charging patients block fees; that is, in effect asking them for a prepayment for uninsured services that they might not ever need—they might need them, but they might not.

I believe that there were some prior arrangements to have speakers address this issue more fully. I’ve been here all day and I haven’t heard them do so, but I was expecting a more elaborate discussion of this issue. I’m not prepared to go into much detail about the abuses of block fees, but there has been some documentation of the potential for abuse, for the harms that can occur to the physician-patient relationship when physicians demand block fees, and the extreme difficulty and high cost of monitoring the application of block fees to ensure strict compliance with the rules, because there are a number of rules that have been set out by the College of Physicians and Surgeons of Ontario.

Anyway, in reviewing materials about block fees in order to prepare this presentation, I came across what I think is an anomaly in Ontario regulation 856/93, amended to Ontario regulation 53/95 of the Medicine Act, 1991. As far as I know, this regulation is up to date as of two days ago, because I downloaded it from the Internet, and

it clearly defines professional misconduct, including the following: “Charging a block or annual fee, which is a fee charged for services that are not insured services as defined in section 1 of the Health Insurance Act and is a set fee regardless of how many services are rendered to a patient.” So if that regulation is still on the books, how is it that the College of Physicians and Surgeons of Ontario, charged with protecting the public interest, has a policy specifically permitting block fees? This is despite their own findings of violations around the rules governing block fees, including: doctors charging fees as a condition of being accepted into a practice—that’s against the rules; making patients pay for OHIP-covered services—that’s clearly against the rules; terminating patients who refuse to pay the block fee or not responding to telephone messages from patients who have refused to pay the block fee. All of these would be considered against the rules, as established by the CPSO.

Curiously, the government’s own Commitment to the Future of Medicare Act also endorses the practice of doctors charging their patients block fees for uninsured services. My question is, why doesn’t the government’s original regulation under the Medicine Act prevail? If the answer is that medicine is a self-regulating health profession, then we have to wonder why the CPSO permits block fees, given their potential for harming the public interest. I can readily understand why these fees are attractive to physicians, but I have trouble understanding what kind of appeal they would have to the vast majority of patients, and therefore I question their being in the public interest.

As I tried to move beyond newspaper clippings and anecdotal reports about how care was affected by charging block fees, I found very little, certainly no indication that there have been any major research studies done to document the incidence of application of block fees or the problems in access that they might cause patients. There are no studies reported in the Canadian Medical Association Journal and none in Canadian Family Physician. And there doesn’t appear to be any monitoring of potential harm at all with respect to the imposition of these fees, apart from that being done by the Medical Reform Group and, I believe, in addition, the Ontario Health Coalition.

This brings me back to HPARB. I looked through the annual report. The most recent available report online dates back to 2004, so something’s going on with the web page; I think they need to bring things up to date a bit. At any rate, I wanted to see if there were any indications of complaints made related to block fees, and I was surprised to see how sketchy the information was that’s available in the annual reports. There’s absolutely nothing about the subject matter of the complaints, only numbers about the cases reviewed and handled.

So again, why the anomaly between the regulation in the Medicine Act, 1991, and the CPSO policy? And what, if any, role has HPARB played in addressing the issue of block fees within its review and appeal process?

My own perspective is the same as that set out by the Medical Reform Group in 2004. I think that block fees

are counter to the public interest and should be banned, that regulatory bodies should define their use as professional misconduct consistent with the original regulation that I quoted earlier, 856/93, and that penalties for noncompliance should be stiff.

Thank you for your attention. I'm finished.

The Chair: Thank you very much. I believe, in rotation, we are looking at Ms. Scott.

Ms. Scott: Thank you for being here today. You've patiently waited, I think, through the entire presentations, since this morning.

Ms. Kushner: I was waiting to see what people said about block fees.

Ms. Scott: I don't think I have all the answers for you, but maybe in the course of conversation—I don't know.

I've only seen the block fees maybe once in my riding. I was going to ask you, do you know the percentage of doctors who do use block fees?

Ms. Kushner: I don't, and I don't know that the study has ever been undertaken.

Ms. Scott: But you've heard a lot about—

Ms. Kushner: I hear individual patients saying, "My doctor just sent me this letter. Do I really have to?" Of course, they don't really have to. They can opt to pay for uninsured services that the doctor might provide as their requirement comes up. But patients feel quite intimidated getting a letter from their doctor saying, "Pay now and avoid the hassle later. You'll have it all prepaid," so to speak. They feel a little intimidated by the process. So I hear about it from the patients' end, and I've had some copies of sample physician letters forwarded to me. They're usually very polite letters and they sound very reasonable, but the fact is that it does put some pressure on patients to cough up the money so as not to offend the doctors. If you think about it, the charges that are being imposed are somewhere around \$100 for a year's worth of coverage. If you've got 1,000 patients and every patient signs up, that's \$100,000 of income before the doctor fills in a form or does anything.

Ms. Scott: I just wondered how prevalent a practice it was.

Ms. Kushner: I really don't know. I've seen, for example, newspaper articles that suggest it's more and more prevalent, but I don't know what the base is.

Ms. Scott: You've never had a patient or anyone take it to the Health Professions Appeal and Review Board?

Ms. Kushner: I wouldn't know that, because I couldn't find any information about the actual matters being adjudicated by the board.

Ms. Scott: So you've never had someone actually take it farther than—

Ms. Kushner: Not that I'm aware of.

Ms. Scott: I mean, that would be the second tier that they'd go to. They'd go to the college first, right?

Ms. Kushner: They may well have, but I'm not aware of it.

Ms. Scott: Okay. I don't know what to say to that.

When you say you do policy consulting, is that for patients with doctors? Spend a little bit more—

Ms. Kushner: Oh, I'm sorry.

Ms. Scott: That's fine, just a little bit more background.

1430

Ms. Kushner: My consulting practice is very broad. It's sort of health policy writ large. I look at national policy, international policies, health systems in other countries, so it's not specific to Ontario. My clients are mainly other governments, but occasionally my clients might be a health organization or even, in a couple of instances, a regulatory body. But usually not. It's governments, usually.

Ms. Scott: Is there another province in Canada where you've looked at the policy in respect to block fees?

Ms. Kushner: This particular policy—I believe that, for example, charging such block fees is quite a common practice in Quebec. But again, mostly what I was drawing on to get my information were newspaper reports, not carefully conducted research studies. I'm sorry not to be able to bring you more. I thought there would be more information out there myself.

Ms. Scott: I'm sorry I don't have the answers for you, but thank you very much for appearing before us today and for giving us that information.

The Chair: Ms. Martel.

Ms. Martel: Thank you for your presentation today. The most recent case we had with respect to block fees, which we did forward to CPSO, certainly left the constituent with the impression that if they didn't pay it, they would not have a physician. It wasn't that the wording was so much like that; it was the mere fact that it was sent and a request was made. That was the point of the matter. They sent it to us and we sent it on to CPSO to say, "We're quite sure that the constituent does not have to pay this, but they would like to hear this from you, CPSO, the regulator, because they are quite concerned about the implications if they do not."

As I look at the board's current responsibilities, at least as was provided to us—and it was touched on a bit this morning—I'm not sure that there's a mechanism for the board to look at something like that under the responsibilities as they are outlined. It seems to be more—well, in one sense, registration, and that's pretty clear, if someone is not being allowed to register as a member. But the complaints part of it, I'm not sure how broad that is. You would get the sense that the complaint part of it is more with respect to not providing appropriate medical care or concerns about the care that was provided versus the request for a fee. I'm just not sure that it's that broad and I don't know whether or not the board has ever dealt with something like that.

Ms. Kushner: The reason I raised it was in the context of having something that appeared, at least at one point in time in Ontario, to be a fairly broad definition of what constituted professional misconduct that included the imposition of block fees. That's not the only way in which you can be considered unprofessional, but that was one of them. I'm not sure why that regulation is still—maybe that's just an error; I don't know. But it's still on the books, so it looks like it's still in force.

Ms. Martel: Yet the letter we got back from CPSO said very clearly it was from the—

Ms. Kushner: It's very clear that it's been amended somewhere, but there's no indication of that—that I could see, anyway.

Ms. Martel: Okay. Thank you.

The Chair: Thank you very much. Ms. Smith.

Ms. Smith: My understanding is that they can charge block fees for uninsured services, but they can in no way preclude treatment if you refuse to provide. So they can request them, but if you choose not to pay them, they cannot preclude you from having services. Certainly the government has moved on a number of high-profile cases where clinics were being opened to stop that kind of practice.

I think I'm struggling, along with some of my colleagues—maybe they're not struggling as much as me—with the link between your concern about block fees and HPARB. You were here today, so you know that we've been talking about the process: who comes before HPARB, what their process is, how they deal with the various colleges that they regulate. If you had had a concern about someone who had gone to the college and then was appealing that decision, I would understand the linkage, but I'm just not getting the link between your concern about block fees and what we're doing here today. Maybe you can enlighten me.

Ms. Kushner: The specific point with respect to HPARB is that I was unable to determine whether a complaint had ever gone through a college, been disputed by an appellant, and found its way before HPARB on the issue of the imposition of block fees. I wasn't aware of that, either because the block fee had been inappropriately administered—in other words, the suggestion was that they were going to be denied service if they didn't pay it. That would be a clear violation.

But my second question was: If, as a member of the public—and I am just a member of the public, after all—I go online and see a regulation on the books that looks like it's in force that forbids, that bans block fees, and then I see a policy under the College of Physicians and Surgeons of Ontario that says, "No, no, block fees are okay, and here are the rules under which they have to be provided," that creates real confusion about what the rules really are. I guess that's a concern not so much for HPARB as it is for the Legislature of Ontario.

How's that? Does that help?

Ms. Smith: Yes, I guess. I still don't see the link between HPARB, but yes, I understand you wanted to raise the question. That's fine.

Ms. Kushner: For me, the link was just to find out whether in fact the question of block fees, which is a contentious issue, had ever found its way before HPARB. I was unable to get any information, which suggests that HPARB is not as transparent as I would like it to be. Maybe that's clearer.

The Chair: I think we've exhausted the questions for you, but we appreciate your coming. Thank you very much.

I'm advised that our 3 o'clock appointment is not here yet, so we will take a brief recess until 3 o'clock, or until they arrive, whichever comes first.

The committee recessed from 1436 to 1451.

ONTARIO COLLEGE OF PHARMACISTS

The Chair: Welcome to the standing committee on government agencies. We're very pleased that you are able to join us representing the Ontario College of Pharmacists. For the purposes of Hansard, we'd ask you to introduce yourselves. We have 30 minutes in total. You may use as much of that time as you'd like for your presentation, and whatever time you leave will be divided equally amongst the three caucuses for any questions or comments.

Ms. Della Croteau: Good afternoon, everyone. My name is Della Croteau, and I'm the deputy registrar and director of professional development for the Ontario College of Pharmacists.

Ms. Chris Schillemore: I'm Chris Schillemore. I'm manager of registration programs at the Ontario College of Pharmacists.

Ms. Claudia Skolnik: I'm Claudia Skolnik. I'm the manager of investigations and resolutions at the Ontario College of Pharmacists.

Ms. Croteau: Thank you very much. We have a very short presentation today, but we thought it was an important presentation. So I'm not sure that we need 30 minutes, but we'll make our comments.

First of all, we appreciate the opportunity to be able to comment on the review, the mandate of the Health Professions Appeal and Review Board. Just to give you some background, the Ontario College of Pharmacists is the regulatory body that governs over 10,700 pharmacists, over 800 interns and students and 3,050 pharmacies within the province of Ontario. Each year, the registration committee reviews over 300 applications for member registration, and the complaints committee reviews approximately 160 complaints, which are investigated.

Very few of the Ontario College of Pharmacists cases actually end up in an appeal to HPARB. However, the right to request an appeal and the right to request a review by an independent body of the Ministry of Health is a very important part of our registration process and our complaints process. The right of an applicant to appeal, whether a member of the public or of the profession, inspires confidence in the fairness and the transparency of each process. HPARB is a critical piece in fulfilling our mandate to protect the public, and it ensures that the college carries out both the registration process and the complaints process in the public interest. When a member of the public, a pharmacist, a student or an intern does appeal a decision to HPARB, it serves as part of a quality assurance process for each committee. Both committees review the process, the information included and how a decision was made. The committees are informed

by the HPARB decision and have an opportunity to discuss whether future processes need to be amended.

The only challenge we have had with HPARB decisions was when the appeal board appeared to be evaluating and making decisions with regard to the standards of practice rather than with regard to the decision itself. A thorough orientation of the board members would ensure that they understand the extent of their mandate and that this does not happen. However, it is important to recognize that this college appreciates an appeal process heard by a board that is familiar with the unique issues arising from the health colleges. The Ontario College of Pharmacists supports the continued services of the Health Professions Appeal and Review Board as an integral part of the regulatory process for health professions in Ontario.

That is our submission. Thank you.

The Chair: Thank you very much, and I believe in rotation now we are with Ms. Martel.

Ms. Martel: Thank you very much for being here this afternoon. Can I just go to the comment you made with respect to the board making decisions on standards of practice. Was that some time ago? Have you seen some recent changes? I know there have been changes.

Ms. Croteau: Yes, that was some time ago. I don't believe that we have seen that recently at all.

Ms. Martel: Can I understand what the nature of that dilemma was?

Ms. Croteau: If the public looks sometimes at the standards of practice of a pharmacist, they may not understand why. I can't cite an actual case, but let me just give you an example. Medications aren't allowed to be returned to a pharmacy and reused. Sometimes, to the public—they would say, "Why not? They're expensive. Why can't we reuse them?" etc. versus a standard of quality pharmaceuticals. So there's a standard of practice that medications aren't allowed to be reused. So what sometimes would seem like a reasonable thing to the public is not in the standards of practice. Members of the board are members of the public, so sometimes those lines can get blurred. That's just an example. That is not an example of a case that happened, but I'm just trying to think of an example.

Ms. Martel: I was going to say, "Who?"

Ms. Croteau: Yes.

Ms. Martel: But in your opinion, your perspective, since there have been changes at the board and, as we heard this morning, an increase in training, do you have a sense that those kinds of issues are gone now, you're not seeing those in terms of the board decisions that are being rendered?

Ms. Croteau: Yes.

Ms. Martel: In terms of the decisions themselves, you said they were shared with both committees—was it discipline and complaint?

Ms. Croteau: No, the complaints committee would look at the complaints decisions. The registration committee would look at the registration decisions. Then the

committee, would discuss them and they would inform, then, future decisions of the committee.

Ms. Martel: When you said 160, I think that I just missed it. There were 160 complaints to the board?

Ms. Croteau: There were 160 complaints to the college in a year.

Ms. Martel: To the college. And that's an average?

Ms. Croteau: Yes, an average.

Ms. Martel: Of those, of the 160, how many would proceed on, then, to the board?

Ms. Skolnik: I think there would be about an average of eight cases a year. Some of those cases don't actually proceed to a hearing or to a review because of frivolous and vexatious proceedings that stop it from proceeding to the next step, or the applicant for the review may withdraw. So, on average, about six to eight a year. I don't think that's a lot.

Ms. Martel: No, you're right, it isn't. I appreciate that answer. In terms of using what you learn as a quality assurance tool, how has that been effective among committee members? Has that resulted in, just off the top, additional training for committee members? On a practical level, how has that unfolded in terms of adding to quality assurance at the college?

1500

Ms. Croteau: The thorough discussion of the members and then actually taking that into further decisions, and every year both Chris and Claudia as managers, we also orient our board members, our committee members, about the kinds of decisions and past decisions, that kind of thing. So they're oriented to the process as well. If we have had something come back to us to say that we need to look at this again, then that would be the kind of information we'd provide our committee as well, that kind of feedback.

Ms. Martel: For the next time.

Ms. Croteau: For the next time; that's right.

Ms. Martel: I think that's all that I have. Thank you.

The Chair: Mr. Gravelle.

Mr. Gravelle: Welcome. Thank you very much for appearing before us. The bulk of the issues that come before you are registration issues; is that correct? I mean, in terms of complaints that may move on to HPARB, is it registration or is it—I'm not making the assumption; I really am asking the question, just to be clear about your—

Ms. Croteau: Actually, I was just looking at these data. I don't think we have any that went last year, but we normally have two or three, perhaps, that would go to HPARB from registration that actually get heard. Sometimes what happens is that the applicant, because they've got 30 days, would put in an appeal. These are applicants who are trying to meet the standards for registration. An example of that might be that the registration panel has denied their application because of fluency. They might put in an appeal because they've got 30 days. In the meantime, they've done a fluency examination. So in that time span they get their results and they've met the requirement, so then they withdraw their appeal. That

happens actually quite often with registration appeals, that the applicant has actually met the requirement before the case comes to be heard.

Mr. Gravelle: I presume you appreciate, obviously, the work that HPARB does and you receive a recommendation or decision from them. A previous group that appeared before us talked about how they use the decision and put it, actually, in their monthly paper or document in terms of trying to educate their members. How do you respond to the recommendations that are made? It's in some ways a follow-up to Ms. Martel's question too. Have your processes been adjusted in any fashion as a result of some of those recommendations or decisions?

Ms. Croteau: I can go way back here because I used to be the manager of registration, and I recall certainly one decision that came back to us and it was actually a fluency issue. We have a lot of requests for that kind of an appeal. The board had actually felt that we had really been severe in our decision and that we needed to look at sort of non-objective, I guess, measures of fluency, because it's very easy to say that you've got to do a test and get this objective evidence. On this one case, they had felt that there was all kinds of evidence, but they hadn't written the test and we really needed to look at that again. So that was really important, for us to step back and say, "Okay, what are the kinds of things that people could provide to the committee to show evidence of fluency besides having passed these tests etc.?" That would be an example of something that we have done.

Mr. Gravelle: Okay, I appreciate your candour on that. I think that's important because that's probably how it can be positively received, because these are difficult situations.

Something that has come up several times today, and the chair of HPARB, Ms. Lamoureux, was dealing with this this morning, is the time it takes to make a decision. They put in place measures to try to speed up that process of decision-making. Is there anything from the college's perspective that can be done to speed up the decisions that are made? Is there a role that your college can play in terms of that need to speed things up? Do you see anything from your position?

Ms. Croteau: Anything that we could do to speed up—

Mr. Gravelle: Not so much what you could do, or even your thoughts and recommendations. Obviously there's a real effort being made to do so and there's been some success in that regard. Is there anything that you would see in terms of helping speed up the decision? I understand that the college feels that if it were able to learn in advance or even more quickly of the decision that's coming down, it could respond somewhat differently. Is that a fair thing to say?

Ms. Skolnik: For clarification, you're asking our input with regard to expediting the decision-making process of HPARB?

Mr. Gravelle: Yes.

Ms. Skolnik: Not of our decision-making.

Mr. Gravelle: That's right.

Ms. Skolnik: I think the fact that HPARB has been triaging and screening cases to see whether they fit the criteria of frivolous and vexatious has been a very positive step in the right direction and it has created an opportunity for cases to be dealt with and disposed of earlier so that there is the ability to focus on the ones that warrant a further review. They have engaged in a process of pre-hearing conferences, which I'm sure you must have heard about today, which I think demonstrates an effort on their behalf to streamline some of the issues. I know from the other colleges that every college has a different experience. In the experience of our college, I'm not sure that has made a difference in terms of the resolution of the complaints or in terms of expediting the scheduling.

Mr. Gravelle: Just one last question, if I may. Certainly our government has been moving to try to help internationally trained professionals move into the professions. I presume that your college is also involved in some processes or programs to try to speed up that process as well. Can you just give us some insight into what role you've played in that regard in terms of internationally trained professionals?

Ms. Croteau: Certainly. I could spend the day.

Mr. Gravelle: Don't do that.

Ms. Croteau: Just to give you perspective, if we look at the register of the Ontario College of Pharmacists, a quarter of all the pharmacists licensed in Ontario are from outside of North America. So traditionally Ontario has licensed large numbers of internationally trained graduates. We have been advocates of a bridging program and were one of the first bridging programs to be developed in Ontario. Our international pharmacy graduate program has been a bit of a gold standard for bridging programs in Ontario, and we have collaborated with the faculty of pharmacy at the University of Toronto to provide that program. As with all regulators in this situation, it's a balance between ensuring that the people we license have the skills and the knowledge to practise in Ontario and also ensuring that that process happens as quickly as possible—balancing that. We don't want to set excessive barriers; on the other hand, we don't want to license people who aren't able to practise here. That's a constant balance that we're trying to achieve in our profession.

Mr. Gravelle: I appreciate that. Thank you very much.

The Chair: Ms. Scott.

Ms. Scott: Thank you very much for appearing before us here today. To follow up on Mr. Gravelle's questioning about the foreign-trained professionals coming into Canada and the screening and trying to get them up to our standards as quickly as possible, can you comment a little bit more about any type of pre-screening you'd like to do in their home countries before they come over, because of, as I said earlier today, high expectations and then the reality when they do get here? Would you like the opportunity to expand a little bit?

1510

Ms. Croteau: Certainly because of the international pharmacy graduate program, one of our colleagues at the faculty has done a lot of research and even publishing in this area, really looking at the barriers. The constant for pharmacists coming here is fluency. It's one of the main determining factors for whether they're successful in our international pharmacy graduate program. Because these are intelligent people, they have university degrees from other countries, their level of fluency as to whether or not they're able to assimilate all the knowledge and skills in English in order to be able to practise—do you have anything to add to that, Chris?

Ms. Schillemore: There is also the opportunity for them to have their documents evaluated by the Pharmacy Examining Board of Canada while they're still in their home country. They just have to send their documents to that organization. I think what we are seeing, though, is that people who are allowed to immigrate have an assumption that it's linked to the fact that they do have a profession and they suppose that they will be able to get licensed very quickly. I think there's some kind of disconnect in terms of the information that's available.

Now, we have been working with Immigration Canada; we've been working with MTCU, various other government organizations and other regulatory bodies to take a look and see what kind of information we can provide to people so that they're prepared when they get here. But I think that's probably one of the biggest issues for immigrants.

Ms. Scott: Absolutely. In providing information and looking at documents before they come over, are the language tests available that they can take before they're definitely involved?

Ms. Schillemore: Certainly the language tests are available. From experience and from some of the research, what we find is that people in their home country are not very focused on learning English as a second language until they actually get to Canada. You could even take classes; however, really it's through the practise and the use of the language that you really become proficient. That would be ideal, if fluency could be met before they got here, but from a practical standpoint, I think it's a difficult thing to do.

Ms. Scott: Just because we need to do more pre-screening and because of the use of the Internet of course, I don't know whether there were ever thoughts of, for example, the pharmacy association creating the tests for language, some type of educational opportunity that they could be taking online now. I don't know who comes from where—a quarter of your professionals are educated outside—but I just don't know if that's a possibility. It's a lot to ask in a way, but we're trying to attract.

Ms. Croteau: Online training in English is what you're saying?

Ms. Scott: English as a second language, yes.

Ms. Croteau: Well, again, from someone who has tried to learn another language, you have to speak the

language and listen to the language and read the language. You can certainly read online, but all of those other things—you've got to have an ear for language.

Our colleague at the faculty has now got a grant for looking at English skills for health professionals in general. One of the things to remember is that all the language tests test English fluency generally. Then, when you come here, you must learn all of the professional language. So it's not just being able to go to the grocery store and buy groceries, get on the bus and go downtown. It's, can you use medical terminology in English and then can you take that information and, when you're counselling a patient, translate it into lay language so that the patient understands it? Our own Canadian-born students find that's a skill they have to develop, so you can imagine if you're trying to do that in your second or third language. It's certainly something that we recognize, all the health professionals recognize, and they're really trying to put supports in place for people to gain those skills.

Ms. Scott: Because most of the dealings that you have with the review board would be with registration, and you mentioned fluency was the one thing.

I think that's really all the questions that I have for today. Thank you for appearing before us.

The Chair: Ms. Martel, did you have a further question? Okay.

Thank you very much for coming here today and providing us further information.

Ms. Smith: I just wanted to make one point around who is coming tomorrow etc. I know that HPARB were feeling, at least at the break, that they didn't need to come back tomorrow. One thing that was raised that I just wanted to address was that the previous presenter talked about a lack of transparency in their reports. The chair did say this morning that they were looking at better tracking systems for all the types of decisions that they make. I was just wondering if we could ask research to pull out that transcript in order to address that concern, because I think the concern was addressed by the chair this morning. I don't know that it would be the best use of anyone's time if the chair came back tomorrow to address that when she really already did this morning, as long as we have the transcript of it.

The Chair: Ms. Martel.

Ms. Martel: Can I just ask one other point, then, because I was—I'm not sure if "concerned" is the right word to use, but maybe it is, about the presentation by CPSO from the context of clearly understanding what it is that is being requested by the board that some of the colleges might object to. I'm not sure, if we can get unanimous consent, if we can just have that responded to, because I don't want to have somebody come back to explain that tomorrow. But if I can get some clarification of what it really is that's being requested—I don't know if it will take that long.

Ms. Smith: Madam Chair, because we have a few minutes, perhaps if I could just take a moment to talk to the chair, who is still here, and see if they're willing to respond to that question. Maybe we can preclude them

from coming back tomorrow, if everyone agrees to that. Can we just take a minute? Is that okay, Madam Chair?

The Chair: Yes. We can do a recess for five minutes.
The committee recessed from 1517 to 1520.

HEALTH PROFESSIONS APPEAL AND REVIEW BOARD

The Chair: We're back in session. I think we're going to begin with Ms. Martel's question, and I think we all have a general understanding of where that goes. We appreciate the fact that you've been here all day and have heard comments, and certainly have a sense of the flow of what has taken place this afternoon.

Not to prolong this, but I just want to tell you simply that as this is a process that, as a committee, we have been sort of creating, this is why we find ourselves in the situation of having offered the opportunity to the individual agency or board to come back, and you can see from this why we think there's some legitimacy in having that avenue open to us.

We'll begin, then, by asking Ms. Martel to give us the sense of the question that she wants to ask.

Ms. Martel: Thank you to both of you for staying all afternoon until the other staff were here. As you can appreciate, this is probably backwards, because it's not you who have made the offer to us to come back and refute or rebut. It's me asking you to come back and clarify something, so I appreciate your generosity in agreeing to do that.

Here's the dilemma that I have. Truly, I did not understand entirely the concern that was being raised by CPSO and how valid it was. For example, their recommendation number 1 says, "We recommend that HPARB discontinue the practice of requesting the complete physician history from the college." I contrast that recommendation, then, with what we heard from the college of dental surgeons, which was that that's not being requested, if I heard him correctly. So can you just clarify for me what is being requested and what is the test that's being used by the board to protect confidentiality, but also to look at what is in the public interest, if having more disclosure to the board around past history impacts on public interest and patient safety?

Ms. Lamoureux: I hope I'm not going to confuse things. The board looks at complaints in two streams: Was the investigation conducted by the complaints committee adequate, and was the decision that they reached reasonable?

Under the legislation, we are to look at their record of investigation, which is a specific reference in the legislation, and the documents and things upon which they relied. So what we request is really fact-dependent. If, in the course, there appears to be a specific fact situation where a prior complaint history would be, in our opinion, relevant and was available at the time to the committee, yes, we would make that request to look at that information. So if you could just set that answer aside.

The other legal obligation, under the legislation, that the board has is to review all the material we receive

from the college to determine whether or not it can be disclosed legally within the bounds of privacy legislation—appropriate consent to determine what can and cannot be released. We do that when a file comes in—and I'm referencing those thousand pages or the huge files. So the board reads that file to determine what can be released. Often, when you're dealing with complex medical issues, you do see other patient names. We would redact that information: credit card information, home addresses, information of that nature. We have that obligation throughout the process, so if additional information comes in, if the party makes additional submissions in a review, we also review it to ensure that it's complying with our disclosure obligations and to ensure that the parties get everything they're legally entitled to.

We have some situations where, as I mentioned earlier, you do not have to be the patient who has received the service to complain. So you can imagine a situation where we have—I'll use a family situation. A number of siblings: one sibling doesn't like the care an elderly parent has received; the other siblings disagree. We cannot share the elderly patient's health care information without their consent, or if it's a situation where there's incapacity, without the person who has that power of attorney to release that information. It's first and foremost. That protection is built in throughout the process and that is our legal obligation. It's not the obligation of the college; it's the obligation of the board. It's a very unusual requirement that our board has and a legal obligation that we must fulfill when we're moving forward.

Actually, I think I've lost my train of thought with respect to your other question, if you can forgive me. There was no chocolate at lunch, or even coffee, so I think that's part of my problem.

When we're doing this, we're very mindful of that fact.

The other aspect where we also take information into consideration is when the college has requested the report of an independent expert to provide information to assist the committee with their decision. That's the complaints committee. Very often, that information—who the expert was and their credentials—is kept confidential by the college. However, when it reaches the board, we have a legal obligation to determine whether or not the name of that expert and/or their qualifications are relevant to the ultimate disposition and would impact the decision as to whether or not the investigation was adequate, the decision was reasonable, or if the health care professional needed that information in order to appropriately respond to the question. Sometimes we would make the decision that that should be kept confidential. So the panel gets everything but the parties do not necessarily get everything. It's very much fact-dependent.

David, do you have anything further to add?

Mr. Jacobs: Yes. Ms. Lamoureux started off by saying she hoped she wouldn't be confusing. I don't think she has been confusing, but people often think lawyers' jobs are to be confusing.

Ms. Lamoureux: That's not a good start.

Mr. Jacobs: I'll try not to be confusing.

We receive, as Ms. Lamoureux said, the record of investigation and the documents and things upon which the complaints committee based its decision in every single case. In every single case we have to sift through all of that information and the board has to make a determination as to whether to disclose all of that information or part of that information to both or either party. That's step one in the process.

It may be that there's confidential information in there that we would decide can't be disclosed to either party—things in the nature of psychiatric reports, people's home addresses and so on. But that's not the end of the matter. Before it gets to review, either party or the board on its own motion can decide that notwithstanding the fact that possibly all of the information has been disclosed to the parties, the information is too sensitive to come out in public—names of children involved and so on.

At that point in time, the board can decide to issue a publication ban banning publication of all or part of the information, and could also, in fact, close all or part of the review to the public. So there are a series of layers of protection for confidentiality.

There is no blanket admonition to us in the act: All of such-and-such information will be confidential. So for example, a physician's history may or may not be confidential, depending on the type of case, or may or may not be redacted for names of third party patients who are not present before the board and so on. It's very much, as the chair said, a completely fact-driven situation. It is an open process. We have to be mindful, on the one hand, of the need for privacy and confidentiality in certain matters, but on the other hand, it is an open process. Justice must be seen to be done. The parties who are dealing with serious matters—complaints against professionals and so on; the protection of the public interest—need to be able to have the tools and the information at hand in order to make their cases. It's a delicate balance, but in each case, it's a case-by-case situation. I don't think there's any blanket rule on the board that, "You

mustn't disclose everything" or "We're going to make public everything."

I hope that's clear enough, or obscure enough.

Ms. Martel: That's very helpful. Thank you.

The Chair: Ms. Smith, you had something else to add.

Ms. Smith: Yes. I just wanted to clarify. We heard a presentation this afternoon from Ms. Kushner, who was concerned about the transparency of the annual reports of HPARB and in particular was talking about block fees, wanting to know if the board had ever looked at the issue of block fees. She was unable to do so, given the present format of your annual reports. I think this morning you talked about a new tracking system that you've been developing. Could you just expand on that and whether or not that will address Ms. Kushner's concerns?

Ms. Lamoureux: Yes. There are two things I referenced this morning. One is that we've put in place a case management system which will provide us with better information about the nature of complaints coming before the board and the colleges so that we can perhaps start doing some trend analysis in identifying any systemic concerns as part of our role in protecting the public interest.

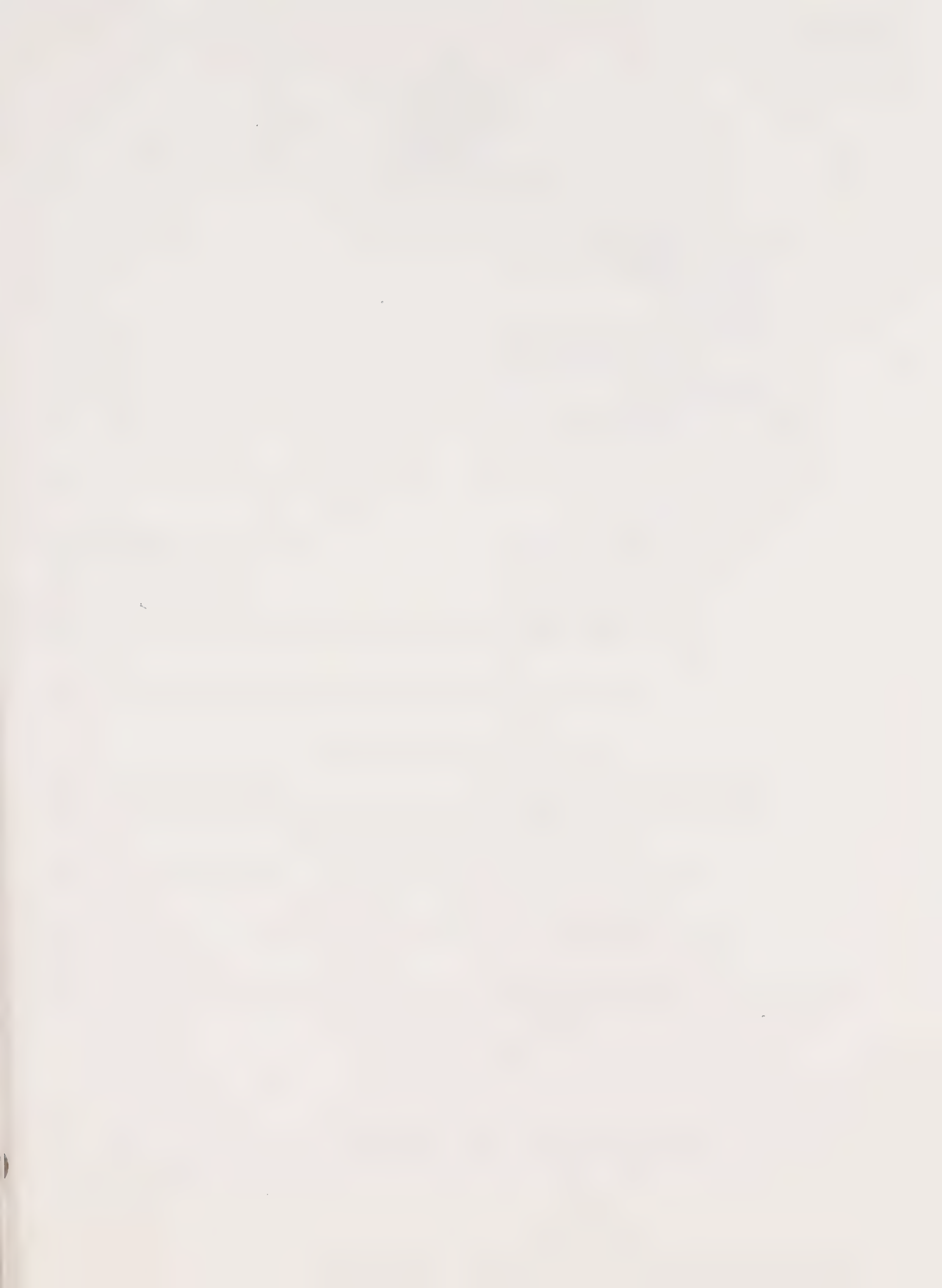
The second part is putting our decisions online so that they are accessible to the public as well, so they can read those. They're currently available in binder format. The presenter could appear at the board—unfortunately, it would be a paper review—to determine what it is. We have not until this point tracked to the detail that she is requesting, but we'll be doing so in the next fiscal year.

Ms. Smith: Great; thank you.

The Chair: Thank you. I think we've covered off the issues. We really appreciate your attendance here all day and the opportunity to have this further clarification. Thank you very much for being able to do that for us.

I'll just remind the committee that there is a change in the schedule for tomorrow, so this committee stands adjourned until 10:30.

The committee adjourned at 1532.



CONTENTS

Wednesday 28 February 2007

Agency review: Health Professions Appeal and Review Board	A-519
Health Professions Appeal and Review Board.....	A-519, 548
Ms. Linda Lamoureux	
Ms. Abby Katz Starr	
Mr. David Jacobs	
Yee Hong Centre for Geriatric Care	A-531
Ms. Amy Go	
College of Physicians and Surgeons of Ontario	A-535
Dr. Rocco Gerace	
Dr. Patrick McNamara	
Royal College of Dental Surgeons of Ontario	A-538
Mr. Irwin Fefergrad	
Ms. Carol Kushner	A-542
Ontario College of Pharmacists.....	A-544
Ms. Della Croteau	
Ms. Chris Schillemore	
Ms. Claudia Skolnik	

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Jeudi 1^{er} mars 2007

Standing committee on government agencies

Intended appointments

Agency Review:
Workplace Safety
and Insurance Board

Comité permanent des organismes gouvernementaux

Nominations prévues

Examen des organismes
gouvernementaux :
Commission de la sécurité
professionnelle et de l'assurance
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

Thursday 1 March 2007

Jeudi 1^{er} mars 2007*The committee met at 1031 in room 151.*

INTENDED APPOINTMENTS

PHILIP J. OLSSON

Review of intended appointment, selected by official opposition party: Philip J. Olsson, intended appointee as member and chair, Liquor Control Board of Ontario.

The Chair (Mrs. Julia Munro): Good morning. I'd like to welcome all of you to the standing committee on government agencies. This morning, our first interview is with Mr. Olsson. As you know, there's 30 minutes allotted to intended appointments. You may use as much of that time as you wish. Any time remaining will be used for questions. Please begin.

Mr. Philip J. Olsson: I have a very brief statement, Madam Chair, if you'd permit me. First I'd like to say it's a pleasure to be here today. I'm looking for frequent flyer points, because I've appeared before the committee twice before: In May 2004, the committee approved my appointment as vice-chair of the LCBO, and in September 2006, the committee reviewed the LCBO and other agencies. We received the committee's report from that review on December 11. We are addressing the recommendations and will reply within the 120 days specified. I'd be pleased to answer questions on any specific recommendation if asked.

I won't take up time going into my credentials—they were thoroughly reviewed in 2004—but I would like to update you on several noteworthy developments at the LCBO to put things in context.

Andy Brandt retired as chair and CEO in February 2006, and I automatically became chair and CEO pursuant to the Liquor Control Act. The LCBO continues to improve sales and its dividends to the province. Sales in fiscal 2006 increased to \$3.6 billion, and the dividend was \$1.2 billion. We expect sales and dividends in fiscal 2007 to be even higher. In fact, our annual report was tabled with the Clerk of the Legislature yesterday, and I have placed at each member's place French and English versions of the annual report.

The store network continues to be modernized and customer service improved, all in a socially responsible manner, and there have been two government-sponsored reviews of the LCBO: the Beverage Alcohol System Review and an operational review of the LCBO by consultants Deloitte. The government, as you know, did not

accept the recommendation of the BASR report. The conclusion of the Deloitte report was that the LCBO is "a well-managed organization" and it cited several examples of best practices.

I can't claim credit for the LCBO's achievements. That belongs to the foundation laid by Andy Brandt, to the experienced management team led by president Bob Peter and to the more than 6,000 dedicated LCBO employees. I do take satisfaction in changes that I've helped make: to strengthen the governance structure and increase management's effectiveness. As vice-chair, I first turned my attention to recruiting highly qualified candidates for the board. When a solid board was in place, I initiated and led a comprehensive review of corporate governance. We looked at practices in other Ontario provincial agencies, at the liquor control organizations in other provinces. We also reviewed practices recommended by the Toronto Stock Exchange, by the Treasury Board of Canada for federal crown corporations and by other private and public sector companies.

The board then prepared a modern corporate governance framework for the LCBO which reflected the state of the art in governance. We also recommended changes to the Liquor Control Act. The government welcomed our input on this important matter, and the Liquor Control Act was amended to separate the roles of the chair and chief executive officer. Bill 151 came into force on December 20, 2006. Another amendment to the act expands the board from seven to 11 members, allowing us to draw on a greater pool of expertise across the province.

The audit and governance review committee has been split into separate committees so that both areas can be afforded the attention they deserve. An executive director, internal audit, has been appointed to coordinate the audit functions across the LCBO—another best practice coming out of our study.

In addition to these changes, I've also encouraged the board to continue its leadership in protecting the LCBO's core values. Our first priority is social responsibility. The LCBO works hard to prevent sales of beverage alcohol to those who should not have it. The LCBO employees made more than 1.7 million challenges last year, and we will make more this year. We encourage the LCBO in environmental stewardship, including implementing the new deposit return program, as well as continuing to reduce container waste at source. The board and audit

and governance committee encouraged the establishment of a comprehensive enterprise risk management process. This helps us identify and mitigate the key risks to our business. The board continues to monitor the LCBO to ensure that our employees' health and safety are carefully protected. In September, I told the committee that what had most impressed me about the LCBO was its focus on continuous improvement, which characterizes the corporate culture. I also made the comment, based on a career in finance, that the LCBO is one of the best-managed companies in Canada. I continue to hold that view.

I welcome questions on my suitability for this intended appointment, which I would consider a great honour and privilege.

The Chair: Thank you very much. The time remaining gives us about four minutes for the government.

Mrs. Carol Mitchell (Huron-Bruce): We have no questions at this time. We'd just like to make a comment. We appreciate you putting your name forward, and thank you for all the hard work that you've put into the LCBO to date.

Mr. Olsson: Thank you.

The Chair: We'll turn to Mr. Tascona.

Mr. Joseph N. Tascona (Barrie-Simcoe-Bradford): Thank you for coming here today, Mr. Olsson. You were here as vice-chair back on June 10, 2004. Interestingly enough, when you were questioned about the chair position, you said, "I don't believe my appointment as vice-chair is a chair-in-waiting position." I guess that turned out to be not so prophetic.

You're here today as a part-time chair. It has always been a full-time chair with the LCBO; now they're proposing a part-time chair. One of the roles of the chair was to ensure that the proper balance between revenue generation and the supporting of the Ontario product was achieved. How can you do this as a part-time chair?

Mr. Olsson: First, I'd like to point out that this committee recommended that the roles of chair and CEO be split. That was in your report from that meeting in September, and that is very much in keeping with the split between governance and management at both public and private organizations. In fact, it's very interesting: Yesterday the Treasury Board of Canada announced with some pride that three of their agencies had now completed the split between the role of chair and CEO.

Mr. Tascona: That's fine. I've only got 10 minutes; How can you do this job as part-time chair?

Mr. Olsson: My job is to oversee the governance of the organization, to make sure the organization is fulfilling its mandates, which include, as you say, social responsibility and the promotion of Ontario product. That ultimately falls to management to do on a day-to-day basis. They have been doing it, and we will ensure they continue to do it.

Mr. Tascona: So you'll just be dealing with governance.

Now, you didn't come before the committee. You've been acting chair, I believe, since January 13, 2006. Typical of the government process here, they put some-

one as interim so they don't have to come before the committee, but here you are today before the committee. You were quite frank about your Liberal connections, when you came here back in June, as a fundraiser etc. How have you been able to do the job without coming forth here until now? We're now in 2007. You've been on the job for over a year. Have you been doing anything different then than you're going to be doing now? Will there be any change?

1040

Mr. Olsson: This may sound picky, but I didn't come before the committee as a Liberal fundraiser. I came before the committee as a potential nominee as vice-chair, and I communicated to the committee that I had a background in the Liberal Party.

Mr. Tascona: We know that. I'm just asking you, you've been acting chair for a full year now and now you're coming forth here as part-time chair. What did you do for the last year? Were you just dealing with governance in the last year?

Mr. Olsson: That's correct, because the vice-chair automatically becomes the chair, so the government didn't appoint me to that role. You approved my appointment as vice-chair in 2004. As I've suggested to you, and as you would now be well aware, we had a governance study underway and it was clear that we were heading to the split of chair and CEO. I can't speak for the government, but I would assume they felt it would be inadvisable to appoint a new chair and CEO, which might be for a three-year term, that having been the practice, knowing that the roles were about to be split into chair and CEO. So the course of action, it seems to me, is quite reasonable.

Mr. Tascona: Okay. Part-time chair. Are you an employee of the LCBO?

Mr. Olsson: I get a T4 as a director of the LCBO.

Mr. Tascona: I guess you are, if you've got a T4. How much do you make as part-time chair?

Mr. Olsson: It's \$150 a day, sir. I understand that it may be raised under some new guidelines for boards, but I haven't even asked what that is and I don't know what it is. It's public service as far as I'm concerned.

Mr. Tascona: You're T4'd for it so it can't be total public service.

Mr. Olsson: I give it to the United Way, sir.

Interjections.

Mr. Tascona: I've got this right here, Mr. Olsson, if you want to give me your attention so you can have the laughing stop with your Liberal colleagues over there. This Food and Drink magazine here: I want to know how much it costs to publish this document which you've given us today and how many you produce every year.

Mr. Olsson: The document costs about \$2.5 million a year to produce. We do get some advertising revenue that lowers that amount to about half that, I understand. I'd have to get back to you on the correct amount. We have limited the circulation to about 250,000 for the last several years to take extra care that we are not competing with the Canadian publishing industry.

The purpose of that magazine is to promote the use of alcohol with food and in in-home entertaining. We feel that it has been a very effective part of fulfilling our social responsibility mandate. Its popularity with our customers and its readers would seem to support that view.

Mr. Tascona: So it's used to promote consumption of alcohol, not control the consumption of alcohol?

Mr. Olsson: No, that's precisely not what I said.

Mr. Tascona: I think you did.

Mr. Olsson: What I said was that it's used—

Mr. Tascona: I think you did.

The Chair: Excuse me, just one at a time.

Mr. Tascona: Mr. Olsson, I want to ask you this. If you didn't spend money on this glossy magazine here—

The Chair: Wait a minute. Excuse me, Mr. Tascona.

Mr. Tascona: —wouldn't it be better used in health care and policing costs, Mr. Olsson?

Interjections.

The Chair: Mr. Tascona, excuse me. I wanted—

Mr. Tascona: I've only got 10 minutes, Madam Chair—

The Chair: I know.

Mr. Tascona: —and they're yelling and screaming at me.

The Chair: I wanted Mr. Olsson to finish his sentence.

Mr. Brad Duguid (Scarborough Centre): On a point of order, Madam Chair.

Mr. Tascona: Not on my time.

The Chair: Just a minute. We'll go to Mr. Olsson.

Mr. Olsson: It's incorrect to characterize what I said as promoting the consumption of alcohol. Precisely what I said is, it is designed to change behaviour to promote the use of alcohol in a socially responsible manner, with food and in in-home entertaining.

Mr. Tascona: Now, the wine strategy was a partnership among the government, the Ontario wine council and, most importantly, the LCBO, to hit certain targets in terms of LCBO sales of Ontario wine and a proportion of domestic wine sold in Ontario. Specifically, the goal was to have a 50-50 market share after five years, by 2007-08, between domestic and imported wines in the province. If we understand correctly, the province, sadly, is off target. I think the best the province is projected to do now is 44% of domestic product. As of 2005-06, the percentage of total wine sales for VQA was at 30.8%. Are you satisfied that 30.8% is the appropriate share of sales at the LCBO for Ontario product?

Mr. Olsson: Could you tell me where the 30.8% comes from again? I'm not familiar with that number.

Mr. Tascona: That's the share: 30.8% of the sales at the LCBO are Ontario product.

Mr. Olsson: My statistics would be that even though we've had significant supply issues—we've had two short crops—the share of Ontario wine of wine sold at the LCBO was in fact 44.3% last year, versus 43.5% the year before. Given the short crop issues, we're quite happy with that.

Mr. Tascona: The VQA is at 30.8%, so aren't you woefully putting the VQA wines, which are in the Vintages section, behind even the Ontario domestic product? You're not promoting it.

Mr. Olsson: Actually, I distributed a sheet regarding how we do promote it. We sell every drop of VQA that the industry will give us to sell.

Mr. Tascona: Okay. With respect to deposit return, LCBO president Bob Peter has been a strong critic. Your spokesman has always been very critical of the initiative, but now obviously there has been a sudden change of opinion. Was the LCBO involved in the negotiations with the Beer Store to deliver the deposit return program?

Mr. Olsson: Yes.

Mr. Tascona: This was a single-sourced and generous contract to the Beer Store—no bidding, I understand. The Premier simply announced he was going to do it through the Beer Store and then proceeded to negotiate. Isn't that a recipe for a raw deal for taxpayers?

Mr. Olsson: No.

Mr. Tascona: Why not?

Mr. Olsson: First, you are correct in asserting that in the past we had taken the position to reduce waste at source and had not been huge fans of deposit return—and we have made considerable progress in reducing waste production in our containers. However, the government, led by the Premier, felt very strongly that a deposit return was in the interests of the environment. We were mandated to do that, and we have enthusiastically supported it.

The Beer Store was used, and interestingly enough it's not an option we had ever considered, but the government did because it has a ready-made recycling system. It seems to have worked quite well to date.

The Chair: We'll move on to Ms. DiNovo.

Ms. Cheri DiNovo (Parkdale-High Park): Thank you, Mr. Olsson, for appearing before us. I'd like to start my questions in regard to the agency store proliferation and the concern of OPSEU that this might be a de facto privatization move of the LCBO. I was wondering if you would comment on that.

Mr. Olsson: This is a position that OPSEU has taken, and I think they're always right to be concerned. They look after the interests of their members very well. Actually, we think they're a very responsible union to deal with. It is not backdoor privatization. The idea of the agency store program really is in two parts, as you probably know. It has existed in northern Ontario, where numbers simply don't exist to support corporate stores, for 30 or 40 years. What is new since the 1990s is the agency store in southern Ontario. Communities, often self-identified, which are underserved but cannot support a full corporate store are served by putting in an agency store.

We invited OPSEU to give us their views. Bob Peter and I and many other members of management met with OPSEU last month and reviewed some work that they had done suggesting that a number of our agency stores could be corporatized or brought back into the LCBO

successfully, and we have been working with them to refine the assumptions of that so that they understand what standards we use financially and so that they have the correct information to work with. That discussion continues with OPSEU, and I think it's constructive.

Ms. DiNovo: Could you expand a little bit on that? In terms of deciding whether an agency store or a corporate store goes in, what would the basis be for that? You said the numbers don't justify it. What sorts of numbers would you look at?

1050

Mr. Olsson: When we do a store, we actually have a three-member store location planning group and they follow demographics. Of course, the key element is the growth in an area. We work back through that—real estate costs—and develop a business case for every potential location and then apply a 12% hurdle rate. If a store doesn't make that hurdle rate, then we would invest somewhere else in the province because we try to prioritize our investments according to return, which in a free market generally corresponds to consumer demand. The most any agency store is selling in the province is about \$1.2 million. And, by the way, those aren't sales that are lost to us; they buy that product from us at a 10% discount. So it has proven to be a convenient way to serve some of these small communities, and the sales are not lost to the LCBO except for the discount that's paid.

Ms. DiNovo: I know that one of OPSEU's concerns also with the agency stores was perhaps third party buying and the lack of training for some of the folks who work in those agency stores. Again, I was wondering if you could make a comment about that.

Mr. Olsson: It's been an ongoing topic. We do actually provide the same social responsibility training and updated training to an agency store operator and any staff who sell beverage alcohol that we provide in our corporate stores. We also keep records on challenge and refusal, and we monitor carefully any reports. No statistics have been produced to suggest that it actually is a problem; in fact, I said at the committee last September that if I were an agency store operator, I wouldn't make a lot of money on selling the alcohol. What I'd really make the money on is the traffic I get so people don't drive to Orangeville or London or wherever to buy their liquor and pass my grocery store up. So I'd be a lot more concerned about losing my licence than I would be about making an extra dollar or two selling to an underage patron.

Ms. DiNovo: Just to wrap up this section of my questioning: What I'm hearing or what I hope I'm hearing is that there will be an increase in the number of corporate stores and a look at trying to convert agency stores into corporate stores as the case warrants. Is that correct?

Mr. Olsson: We are looking at that, and in due course we will. I won't take the time today; the point has been made that it's limited, and I'd be willing to meet with you. But it's quite complex because both we and the Beer

Store provide the products separately to the agency stores, and it's not as clear-cut a case as one might think.

Ms. DiNovo: Well, I look forward to hearing back about it.

I'd like to flip over to the environment and the recycling programs. I think every MPP this morning received something from the friends of the blue box campaign and their concerns about recycling versus the blue box. They pointed to the experience of recycling versus the blue box in Edmonton and they make the point, or the case at any rate, that it's less environmentally friendly to have the Liberal government's recycling program than it is to continue and expand the blue box program. I'm wondering if you could comment on that.

Mr. Olsson: I'd prefer not to get into what I consider a government policy matter. We're executing a mandate that was given us. I would point out, though, that we have been giving \$5 million a year to the blue box program in respect of recycling of our products, and we have agreed to continue that for two years no matter what the experience is.

Also, I hadn't expected to see any data yet, but it's very interesting. I have here a clipping from the North Bay Nugget—I believe that riding is represented here on the committee—and their waste management coordinator yesterday said that he noted a "significant reduction in the amount of glass at the curb." He couldn't quantify it, but said, "It's quite substantial." So it looks like it's working.

Ms. DiNovo: Not according to the friends of the blue box, but I'll leave that be; I know that I'm getting a little out of your jurisdiction in answering that. But I would like to focus on the Tetra Paks and the LCBO move to Tetra Paks. Again, a number of environmentalists have issued concerns about that and the fact that studies and the facts just don't back up the use of Tetra Paks as an environmentally friendly move. Could you comment on that?

Mr. Olsson: One thing I've learned about the environmental debate is that there are lots of facts and they're used in very creative ways by many different people. There are two facts that I would like to start with:

(1) It is asserted that Tetra is not recyclable or that it is not recycled. That is not true. All collected in a blue box or by the Beer Store is recycled. It happens that the most effective place to recycle it is in Michigan because no one in Ontario seems to want to do it at the moment, but it gets done. It's pulped just like milk cartons or something like that; there's a little bit of residual aluminum and plastic. So that, I think, is a misperception.

(2) When people cite statistics that blue box recovery rates have been very low, my answer to that is, "Well, hello, until we introduced it at the LCBO, the primary use of Tetra Paks was in school lunches, and almost all of those containers just go into garbage." In fact, our experience has been that there's a very high recovery rate of Tetra in the blue box program since we've introduced it. It's too early to say, but I'd be very surprised if the Beer Store doesn't experience the same thing.

Ms. DiNovo: That's not what we're hearing from some environmentalists, who are saying they end up in landfill as well. But I'd like to move on, because I don't have very many minutes, to another topic, a concern that was raised before our committee from the smaller wineries in Ontario, who have asked and would love to see more shelf space given to their product. I'm wondering if there's any hope for them on the horizon.

Mr. Olsson: VQA wines: there's nothing wrong in someone advocating a position that might give them a further commercial advantage, and it doesn't bother us. The fact of the matter is, Ontario wines are heavily over-indexed, according to their sales, and VQA wines in particular. In fact, when we have more VQA to sell, we will give them more space.

We also go to some considerable extent to promote the sale of Ontario wines. I've put our latest Vintages release out. We have a six-page spread on Le Clos Jordan, which is a small new winery opening, and we've done this with many other wineries in Ontario. I've also given you a sheet that shows how we support the Ontario wine industry. For everyone who would complain about not having enough shelf space, I could also produce comments of people who have been very fulsome in their praise of the way we promote their products.

The Chair: Thank you very much. That concludes the time allocated for questions. Thank you for coming. You may step down.

Mr. Olsson: Thank you.

The Chair: We will now deal with concurrence. We will now consider the intended appointment of Philip J. Olsson, intended appointee as member and chair, Liquor Control Board of Ontario.

Ms. Monique M. Smith (Nipissing): I move concurrence of the appointment of Philip J. Olsson as member and chair of the Liquor Control Board of Ontario.

The Chair: Thank you. Concurrence in the appointment has been moved by Ms. Smith. Any discussion?

Mr. Tascona: Yes. In terms of questioning Mr. Olsson today, we've had him here before. We had the LCBO here before. Certainly, dealing with his appointment, there's a recent release here in terms of the way the LCBO has been operated in the past through a full-time person. This is a part-time appointment. Mr. Olsson's comments with respect to what he thinks his role is in terms of strictly governance, which is just looking after the board of directors, I think are unsatisfactory. I really believe that the job requires much more in terms of what's expected of an individual in his approach, which I think is quite cavalier in terms of the management of a \$3.6-billion operation. To have a part-time chair just goes to the fact of what the government really thinks about this particular position. So I can't support this appointment. And obviously it's a political appointment.

1100

Mrs. Mitchell: I just want to make a comment. I will be supporting this, and I just wanted to add that I believe that by supporting this motion, we are strongly putting the LCBO in very capable hands and we will continue to

see the LCBO surging forward in a responsible manner. So it's certainly my pleasure to support this motion.

Ms. DiNovo: In regard to the political aspect to this appointment, I can't imagine an appointment that isn't political before this body, so I won't go there. He seems like a nice enough man. I hope we heard some reassurance about corporate stores over agency stores, because I am really concerned about the proliferation of agency stores, and I'm not alone in that. I don't want to see back-door privatization.

I'm also concerned about the recycling effects. I don't think the numbers, contrary to what Mr. Olsson said, are firm, that the recycling effort is better than the blue box or that Tetra Paks are actually environmentally friendly. I just wanted to put that on the record.

I'm prepared to support this appointment. They're all political anyway. They're all going to be supported by the government. It doesn't matter whether it is supported or not; he's going to get the job. But I do want those concerns on the record.

The Chair: Any other discussion? If not, all in favour?

Mr. Tascona: Recorded vote.

Ms. DiNovo: I'll abstain.

Ayes

Delaney, Duguid, Milloy, Mitchell, Smith.

Nays

Tascona.

The Chair: The motion is carried.

Thank you very much. This concludes this part of the session.

AGENCY REVIEW WORKPLACE SAFETY AND INSURANCE BOARD

The Chair: As you know from your agenda, now we will have the opportunity to have the Workplace Safety and Insurance Board representatives return.

Good morning and welcome back. I want to take a moment just to explain the situation that we find ourselves in. When we did our consultations in the fall, there was some question raised about the fact that the agency we asked to come before us had no opportunity to respond, in the circumstances of our previous meetings, to those stakeholders who had come and made their own comments. So the subcommittee, and then later the committee itself, voted to embrace this as a possible solution: an opportunity to give—in this case, you—the opportunity to make some comments that reflect your response to those stakeholder depositions that were made to us two days ago.

What I'm going to do is first of all turn the opportunity for comments over to you and then I will divide the remaining time that we have to each caucus to provide any further questions or comments that they might have, based on your comments.

I want to remind everyone that the purpose of this time is to look at those deputations that were made. So we're not here to talk about other issues; we're just here to hear you respond to what you heard. So I would ask all to consider that that's the purpose of our meeting here today, not to go off on new tangents and things like that.

So, Mr. Mahoney, welcome back. The floor is yours, and we will then go in rotation.

Mr. Steve Mahoney: Thank you very much, Madam Chair. I assume that, even though there are some new people on committee today, it's not necessary to introduce the staff again, but I do have the senior staff here who can respond as well.

The Chair: I'm sorry; for the purposes of Hansard, I would ask you to do that.

Mr. Mahoney: All right. Our president and CEO is Jill Hutcheon. Our chief operating officer is John Slinger. Our chief financial officer is Malen Ng. We have our chief of prevention sitting somewhere behind us: Tom Beegan. They're certainly available to committee as well.

I think it's a good suggestion and a good compromise that you've come to: to allow, at least in our case, an opportunity to comment on some of the deputations that were made, simply because this is public record, this is Hansard, and this will of course lead to a report by your committee with recommendations. Frankly, we want to ensure that we understand the same things that our stakeholders understand. If we disagree on issues, we want to make sure the facts are correct.

In that light, there were comments that were made with regard to a couple of items in general. I'm not going to be specific. The Hansard will show which organizations and which individuals made whatever comments, but I do want to deal first of all, if I might, with some of the questions around the financial responsibility of the organization.

In 2004, the Auditor General of Ontario ordered a complete financial audit to be done, and Grant Thornton was retained by the province to do that audit of the WSIB. In 2006, the Auditor General appointed Deloitte to come in and take a look at the audit. There were some 64 recommendations made in that financial audit that we had a year and a half to two years to undertake. When Deloitte finished their work, they concluded that indeed the 64 recommendations had been complied with and that there were significant managerial improvements that had occurred as a result of those audits.

I would also like to tell you that we benefit from a member of the Auditor General's staff who sits on our audit and finance committee, which meets on a regular basis. So there's real dialogue between the Auditor General, the auditing teams and our financial people. In short, our books are open, transparent and publicly accessible. In fact, the original auditor's report and the follow-up

review are posted on our website for anyone to see. So any questions about what happened to the 3% increase or what happened to this or that are clearly outlined and dealt with in an appropriate way.

I also want to clarify, with regard to the unfunded liability, that we have set a target to eliminate the unfunded liability, currently at \$6.7 billion. By the end of our fiscal year, it will be at about \$6 billion. We are on target to eliminate it by the year 2014, and that remains our goal.

We continue to work diligently on issues like persistency of claims. As I said in my report to you the other day, we have seen a reduction in lost-time injuries but an increase in our financial costs in dealing with them due to the persistency—the length of time they're on the system. So we're working on that issue. We're reviewing our health care costs, which are approximating half a billion dollars a year, and we think we have some ideas. We're running pilot projects. We're looking at new ideas and ways we can reduce our health care costs. Our prevention strategy is key to the next number of years that will lead us toward the elimination of that unfunded liability by the year 2014. That's still our goal and still our target.

1110

I would also like to clarify that my predecessor took the chair in 2005. And my predecessor, just to correct the record, was not Glen Wright but in fact was the current and then president of the WSIB, Jill Hutcheon, who was asked to be the interim chair for a period of two years and to juggle both roles during that two-year period immediately preceding my appointment in May of last year.

I'd just tell you, anecdotally, a true story. I attended a function two days after I was appointed. Someone came up to me and greeted me and said, "Hi, Steve. What are you doing now?" I said, "I'm the chair of the WSIB," and his remark was, "Well, no wonder things have improved down there." The improvement started long before I arrived on the scene, and Ms. Hutcheon and the entire team deserve a lot of the credit for that. In fact, Jill led a \$30-million reduction in the board's administrative operations, which I believe is a concrete example of the WSIB's commitment to fiscal responsibility.

Also during that time and in the year preceding my arrival there was a 3% premium increase, which was referred to by some of our stakeholders. It was factored into the overall costs of health care, service delivery and worker benefit improvements. In fact, the service level provided to our clients improved notwithstanding that in 1996 we had almost exactly the same number of staff in the organization that we currently have in 2007. So there's been a real flatlining of the administrative budget, and in fact a reduction of some \$30 million. Jill and her senior management team deserve tremendous credit and recognition for that, in my view.

I also want to say there were a number of comments made around lack of consultation. Frankly, for anyone to suggest that the WSIB does not consult with the employees, employers and associations in the province

simply shows either a lack of understanding or a lack of awareness. In 2006 alone we attended—and I'm not just talking about one-off meetings—over 1,300 meetings with employee groups, employers and associations. I must tell you that even as a former federal cabinet minister responsible for six federal crown corporations, I have never experienced the degree of consultation demonstrated by this organization. Once again, I can assure you it began long before I arrived on the scene, but it's something I support.

I've been in the service of the public for nearly three decades and I have learned not to become defensive over criticisms of the system that I represent, and I will not be defensive of some of the ideas. In fact, I'm going to be sharing with you some comments that show that we actually learned some new things from the depositions and from the committee in some of the questions. Constructive criticism helps us to improve the services we are mandated to deliver and it can point out systemic weaknesses that we all seek to eliminate. However, I have to say that I consider it somewhat unprofessional, and certainly unfair, to cast aspersions or make defamatory remarks about what I consider to be the dedicated and professional staff of this organization, from our president to the chiefs, to the adjudicators, to the doctors, the nurses and the front-line staff whom I've had the privilege of meeting and working with over the last eight months, who are all committed to our number one obligation at the WSIB, and that is serving the injured worker.

I'll just leave those comments for the committee to digest as you do your report. We will be submitting a formal letter in relationship to some of the disagreements or factual errors that we saw, but I want to thank the committee members for the opportunity for the WSIB to appear before you. I also do want to thank, in spite of our concern over some of the comments, our stakeholders for their comments and submissions. Getting this kind of input is a vital part of meeting our mandate to serve the workers and employers of Ontario. I look forward to continuing our dialogue on the many important workplace health and safety issues that have been raised and that touch so many of us across the province.

As I said on Wednesday in my opening statement, we are all on the same team. We may not always agree on how to get there—and you saw that in different perspectives presented earlier this week—but we are all working toward one goal. I want to reaffirm my commitment to work with all of our stakeholders to achieve that common goal: the complete elimination and eradication of workplace injuries, illnesses and fatalities.

I want to ensure that the door remains open to injured workers and their families, that they are fairly compensated and that they are treated with the dignity and respect they deserve. At the same time, we must be cognizant of the stewardship responsibilities that we have, ensuring that the system entrusted to us by the employers and workers of this province remains financially viable now and for future generations.

We remain focused on our eight-year journey that the system has ahead of it. The elimination of the unfunded liability by the year 2014 will allow us greater flexibility to improve benefits to injured workers and decrease premium rates.

A lot of good work has been done, but in the first month of this year, 12 workers lost their lives in the province of Ontario to traumatic injury at work. If this trend continues, 144 workers in small, medium and large businesses will die on the job this year alone in this great province. This number, I'm sure you would agree, is unconscionable. If we add deaths due to occupational disease, that number would be three times higher, and that's without including the potential clusters of exposures in the workplace. All of this must stop.

Occupational disease continues to be our biggest challenge on the Road to Zero. We are very sensitive to the fact that every claim is more than a piece of paper. We understand that there's a human being with a family within the pages of every claim file. While we continue to implement a plan for the present, we all need to work together to make occupational disease a thing of the past. We are focusing on expedited decision-making, strengthening support for adjudication and quality service, improving our communications with affected workers and, in some cases, their survivors, and enhancing information and technology to support the difficult decisions that have to be made.

With respect, we have not sat on our hands or on reports. For the past two years, our internal focus has been to ensure that the appropriate building blocks are in place. This includes developing extensive adjudicative advice support materials to help guide the training of 70 occupational disease staff and aligning our policy priorities with our research advisory council's mandate. Rather than waiting for the ODAP policies to be put in place, we have implemented an adjudication protocol based on the principles of Brock Smith's final report on occupational disease.

I agree with stakeholder comments that we cannot do this on our own and we all need to work together. Whether you are an association, an employer or a worker, we need to work together to move this issue forward. Over the next several months, we will again consult with our stakeholders on the draft policies.

The work that has already begun in the areas of prevention, return to work and education of all workplace parties is now more important than ever in order to achieve the system breakthroughs that we're all striving for. We are constantly reviewing the way we do business to make sure that the WSIB continues to provide the kind of service excellence that employers and workers expect and deserve.

One such example—and this was referred to by one of the presenters—is with respect to the employer audit. We have already commenced a review of our practices, and that review will help to inform us of any process improvements which need to be made. Similarly, in the area of collections, which was also referred to by one of

the deputants, we are currently looking for service improvements. We will take the suggestions to heart and we will examine them to see how we can do things better.

Our board of directors reflects the stakeholders that we serve, bringing different points of view to all of our decision-making. We meet regularly to review and plan and take action to meet our shared goals. We remain committed to operating in an environment that is open, transparent and accessible.

Communication is a cornerstone of our relationship with our stakeholders. As you saw during the presentations on Tuesday, we may have differences of opinion based on different needs and different pressures at different times. I don't believe that we are of guilty of not communicating. Perhaps we're not telling some of our stakeholders what they want to hear, but that isn't the same as not communicating. That's what making one million decisions every year sometimes does. A decision is a choice between alternatives, and each alternative will have its proponents. Our job is to make tough decisions. We can't sit on the fence. Madam Chair, as you well know, every decision is open to criticism from one side or the other. We strive for service excellence, and most of the time we get it right. We seldom hear from our stakeholders when we're doing a good job, but when they tell us we're not doing a good job, we take it very seriously and we take appropriate action. And I'm sure you, as elected officials, can understand that situation.

1120

Since 2005, the management at the WSIB has had over 1,400 meetings, consultations, presentations and information sessions with workers, employers and associations on a variety of issues. We identify action items from those meetings and follow up to ensure that they are all being addressed.

On Tuesday, there were several discussions about joint health and safety committees. It was the New Democrat member who raised this issue and brought forward some concerns in this area. These concerns were about the health and safety committees in workplaces and the proper certification of their members. I believe these committees are crucial to developing a health and safety culture in workplaces across Ontario, and critical to the success of prevention initiatives. The WSIB sets the standard for this certification training, accredits the training agency and ensures quality control of the courses.

Consequently, as a result of the questions by the member at this committee, I have asked our new prevention chief, Tom Beegan, who is also chair of the Occupational Health and Safety Council of Ontario, to make joint health and safety committees a priority and to work with our system partners, including the Ministry of Labour and the HSAs, to explore the opportunity to improve compliance across the province.

Worker and employer stakeholders have both suggested that a named insured system is a simple answer to coverage issues. I'm more than open to discussing the idea of a named insured model. This issue is not new; we've explored it in the context of mandatory coverage

with stakeholders since 2000. On the surface, it appears to be an attractive solution to the coverage issue. However, it is not an alternative to mandatory coverage as it will not get at those who continue to evade the system.

The reality is, there are a number of roadblocks that need to be addressed and would require legislative change. As you know, the construction industry has a very mobile workforce. Making those employers maintain and report up-to-date lists would represent a significant administrative burden. Unlike private insurance, the WSIB has an obligation and a responsibility to the injured workers of this province to provide benefits and services without compromising them, regardless of whether or not they are named by their employers.

Regardless of where we land on coverage, we've been proactively tackling the underground economy to ensure that all employers are paying their fair share. We have fostered a very successful partnership with the Canada Revenue Agency to address compliance issues and help create a level playing field. In the last two years, we have registered 17,000 non-compliant employers. As was suggested on Tuesday by one of the deputants, we will be reinstating the voluntary registration program to give employers who continue to avoid the system the opportunity to come forward before we identify them through other means.

Our prevention mandate is more than a commitment; it's a culture. It's a new way of doing business. To build on this culture, we need to encourage and recognize appropriate behaviours in the workplace and to pull all the levers out of our prevention toolbox. Our new accreditation initiative, which will set standards for successful health and safety programs, is just one of these levers.

We already know that prevention incentive programs like safety groups and experience rating result in positive behaviours. We also recognize that, like anything, there will always be a few who will try to take advantage and cheat the system for their own benefit. But rather than dismantling the program because of a few bad apples, we're doing all we can to crack down on this kind of fraud, including a verification audit to ensure full and appropriate reporting of all injuries and illnesses. The WSIB recognizes the need to review and find opportunities to improve all of our financial incentive programs, including experience rating, and to ensure their future effectiveness.

I have told this committee and the employers of this province that the WSIB far surpasses the service and value for money provided by any private insurance company. I want to ensure that this continues to hold true. The WSIB continues to support employers in the following ways:

—by providing protection from liability, a point that is often overlooked by employers as I travel around the province, and some actually express surprise when they find out that they have that kind of protection;

—by encouraging and rewarding positive health and safety behaviour through prevention incentive programs;

—by providing training programs, products and services through 14 health and safety organizations;

—by developing an accreditation program to recognize superior health and safety practices;

—through research initiatives such as the centres of research expertise that find innovative solutions that inform WSIB programs and practices;

—by developing an e-channel to make WSIB more accessible to employers;

—and a final point that is often overlooked: by providing tax-deductible premium rates to employers.

All of this is done while also ensuring that injured workers and their families continue to receive the best possible service and that benefits are at adequate and secure levels. We are committed to supporting the injured workers of this province:

—through comprehensive multilingual support to workers. I said in over 42 languages the other day but it's actually in over 60 languages;

—by the creation of an adjudicative best practices working group comprised of WSIB staff and external stakeholders that continue to identify ways that we can be better and more efficient;

—through staff training in areas of occupational disease, return to work and, particularly for our front-line staff, worker sensitivity;

—through the creation of a serious injury program working group with external stakeholders, once again, to identify ways that this program can improve service to most seriously injured workers in the province;

—through a review of the WSIB's service delivery roles as part of our commitment to service and organizational excellence;

—through funding of \$6.5 million for occupational health clinics for Ontario workers;

—through numerous benefit improvements over the last few years, including removal of the cap on burial expenses, and the extension of monthly benefits for dependent children from 25 to 30 years of age.

As I said in my opening remarks, my opening statement, at the end of the day we want to ensure that workplaces are safe and that all workers return home to their loved ones without injuries or illnesses. I know that the stakeholders who presented on Tuesday and everyone in this room share that goal. I am deeply appreciative of the opportunity to hear their concerns, share some of our plans with them and with you and reaffirm our commitment to working in partnership with the workers and the employers in the province of Ontario. Thank you very much.

The Chair: We have in the time remaining just about 12 minutes, actually. We'll begin with Mr. Milloy.

Mr. John Milloy (Kitchener Centre): Madam Chair, just on a point of clarification: 12 minutes per party or 12 minutes in total?

The Chair: Per party. Sorry.

Mr. Milloy: Okay, so I can relax a little.

Mr. Mahoney: Me too.

Mr. Milloy: Thank you, Mr. Mahoney, once again. I was just on the last round when you appeared in front of the committee and we only had a few minutes to talk. I didn't get a chance to get on the record that you're a proud graduate of St. Jerome's High School, the best high school, well, anywhere. But thank you for coming in front of the committee.

There are two areas I wanted to touch on, one very briefly: There was a lot of comment on this whole issue of consultation and you touched on it a bit in your response today. Just digging down a little deeper, if you could provide for the record some examples, I guess, of where you've engaged in consultation as chair where you've made yourself open to stakeholders. Also, on a point that I think some of the witnesses made, what happens to that information? Obviously, you can't agree with every side, but maybe some examples of where you've been able to follow up with some of the concerns that have been brought forward.

Mr. Mahoney: Thank you, Mr. Milloy, for that question. First of all, I actually graduated from Richview, but I did spend three years as a boarder at the greatest high school ever in Kitchener, St. Jerome's.

Some of the consultations that I personally have undertaken have been to meet with all of our staff in 14 offices to spend time with them and to learn their issues on the ground. At the same time, when I've been in those communities to meet with stakeholders, with injured worker groups. We met with the folks from Dryden who had suffered terrible illnesses from the Weyerhaeuser situation—that was in Thunder Bay. We've met with injured workers in London. In fact, I went to their office, where I met a couple of the people and saw the pain and suffering they were enduring and some of the problems. And I've met with and spoken to a number of different employer groups and associations.

1130

What I have strived to do is to continue the openness in terms of meeting with folks around the province who had been there prior to my arrival, but perhaps from a little different perspective, having been in elected office in this place and having had some experience as an MPP with some of the problems that people bring to you on the ground. I appreciate the comment that you made to me yesterday that "It's great to see that you're not defensive about the criticism." I don't want to appear to be defensive at all. I think it's important that we look critically at all of the things. For example, you asked a question yesterday about LMR, labour market re-entry. I'm not at all satisfied with the situation we have in terms of labour market re-entry, and Jill and I have talked about how we can improve that situation, because too often workers are given training either for jobs that don't exist or for jobs that, frankly, they shouldn't be getting training for, either due to linguistic issues or perhaps their past history and education. And we'll continue to do that.

I want you to know that the very first day I was appointed, one of the first phone calls I made was to Wayne Samuelson at the Ontario Federation of Labour,

at which time I gave him my cellphone, my home phone, my cottage phone and my office phone, and I said, "I'm available to you 24/7 if you have any issues or concerns." I did that with a number of our stakeholders so that they would feel that as the chair, I was going to be accessible to them.

Wayne and I have also come to disagree, as might not be shocking to many, on a number of issues, experience rating being one. I'm a strong supporter of incentives for the business community to provide better-quality health and safety and I categorically reject the comments that the people who are employers in this province are liars and cheaters. I don't believe that. I do believe there's fraud on both sides of the envelope, but I also believe that it is a very minor part of the situation when you deal with 350,000 claims a year, 550,000 injured workers in our portfolio, 200,000 employers that pay us premiums, \$4 billion a year in revenue, over \$3 billion in benefits, and I could go on. It's a huge corporation, arguably in some categories the largest insurance operation in the country, although it is truly not just an insurance company; it is also part of a social contract that I think is vital.

Consultation: I also want to say that the staff have been superb in supporting me and briefing me, almost to death at times, but they really have, and they've welcomed me at the WSIB with open arms. That has allowed me to have confidence to go out and talk to people in all areas of the province. As I have said to worker groups, union leaders and employer groups, our number one mandate is to take care of the injured worker. I believe that we are getting better at doing that literally every day.

Mr. Duguid: What's that cellphone number again?

Mr. Mahoney: It's 416-302-1801.

Mr. Milloy: That's going to be in Hansard.

Mr. Mahoney: That's fine. I don't mind. I don't have to answer it. I can turn it off.

Mr. Milloy: This is obviously an opportunity, as the Chair said, for you to respond to some of the comments that were made. One area that I don't think you've had a chance to touch upon was some of the concerns that were brought forward particularly by the small business community. I think there's a view, and I don't mean to put words in their mouth—one of the statistics I heard was I think from the CFIB, that said, "You know, a lot of our companies get one injury every 10 years, and you're trying to make it every 20 years. Basically, why can't we allow the small business community to get on with it and not be imposing so many onerous requirements?" Then at the same time, leading from that, to sort of ask a two-part question, is, "We also have the WSIB getting you so involved in these safety campaigns and commercials and all that." I think there is a view which I don't share but a view that came forward from that: "Be an agency, leave the folks who aren't having huge accidents alone and get out of the rest of the business." As I say, I want to give you this opportunity to respond to that kind of approach.

Mr. Mahoney: I appreciate that. The sad fact is that in 2005, 12% of all of our claims came from small busi-

nesses. We're talking about firms with fewer than 20 employees. I'm assuming many of those would be members of the CFIB, although I don't have access to the membership list so I don't know that. Of the 12%, if you do the math, that's 42,375 injuries or illnesses that could have been prevented. So they're not exempt, and we can't exempt them. With respect, I was in the Legislature when the same people were involved with the CFIB, and I heard the same complaints and the same story 12 and 15 years ago. I respect that they represent a segment of our society that is a critical part of our economy.

We provide services; we will actually send a staff person out to sit down one on one with a small business owner to show them how simple it is for them to fill out the forms. We're undergoing some technological change; it's called ICAM. I can't tell you what it stands for, but it's new software. The new software that's coming in is going to allow people to actually file their claims online, for the employer to actually—I mean, they can't do that now. We get 14,000 faxes every day at the WSIB. It's almost antiquated in that regard. So we're improving our technological capacity to provide better service.

One of the first things, which Jill will recall, I said when I arrived in the chair was, "I'd like us to look at creating a new schedule for small business." We have schedule 1 employers, who pay us premiums; we have schedule 2 employers, who are primarily government and federally regulated corporations. As schedule 2, they don't pay us premiums, but they do pay for the health care costs that are associated with return to work or rehabilitation for the injured worker, and they pay an administration fee on top of that. I had this idea that maybe we could create a schedule 3 just for small business. When I looked into it and learned more about it, I realized that in essence we already do that. In fact, recognizing that small business—I've met with Harinder Takhar, the Minister of Small Business, to talk about how we can address some of the complaints that he gets, perhaps of some heavy-handedness by either auditors or inspectors who go into the workplace, by trying to improve communication, by trying to recognize that they have operations that are in many cases 24/7. We want to provide them with a Web-based tool to help them calculate, because they do self-calculate, their premiums and submit them; we don't figure them out and send them a bill. This is, in that regard, a voluntary system.

Within five days of registering, a small business owner receives our small business employer guide, which includes very easy to understand pamphlets and posters etc. expressing their obligations, their benefits, the legal protections they have, the premiums and how to appeal a WSIB decision. Each small business is assigned a customer service representative, who provides that one-on-one service that I referred to.

We conduct regular customer satisfaction surveys and focus groups. We actually do surveys by third-party, independent companies, so it's not coming from the WSIB and people don't have to be afraid to answer because they think we're going to find out what they

said, because we don't. We simply get the statistics back. I shared, and it will be in Hansard, some of the quite remarkable percentages. If I can recall—it's in my binder—I believe the employer satisfaction was in the neighbourhood of 80%, 79%, from our surveys, and the worker satisfaction was 69% to 70%.

We recognize that we have some problems and that we can do a better job with small business. We're looking for ideas, and we're looking for constructive ideas, frankly, on how we might be able to serve them. I would argue strongly that I have a little more confidence in the surveys we conduct than simply asking a small business owner a question like, "If you had a chance to buy your coverage competitively from five or six companies instead of being forced to buy it from the government's WSIB agency, what would you prefer?" I know as a small business owner myself I'd probably say, "I prefer the competitive approach." But the reality is that we are competitive, beyond competitive, when you look across the country, the services that we provide, the protection that we provide. We are an asset to small business and belong on the asset side of their ledger sheet. We can justify that. We've done a business case for that, and we're very confident in that.

1140

When problems occur, I've intervened personally; Jill has intervened personally. John has gone to the mat for some of these people. The Umbra example that was brought before this committee the other day: We've all gotten involved to try to deal with the issue and the problems that this gentleman expressed and will continue to operate in that fashion.

Let me briefly discuss the social marketing question that Mr. Milloy asked. This campaign has developed what I call a water-cooler topic across the province. It has been phenomenal as I have travelled from Thunder Bay to Ottawa, from Kitchener to Windsor and down to Niagara and all over the province: People are talking about it, the impact that it had and why did we do it. I go back to the fact that in spite of the fact that we are confident we're running a first-class operation at the WSIB—a huge change, by the way, from the times in the early 1990s when I was in the Legislature and a rather vocal critic of the WCB at the time; a huge change in the operation—we still continue to lose 100 people every year to fatalities in the workplace. We still continue to lose almost two and a half to three times that to occupational disease. We still have asbestosis coming down the pipe from years gone by because the latency period is so long. We've got to wake society up.

One of the reasons I was delighted to have the opportunity to come before this committee was to say to legislators, "Join us in our Road to Zero. If you want us to come to your communities to talk to your constituents, if you want us to come and meet with your business groups, your unions, we are more than willing to do it," because we've got to drive the culture change in society right up into the CEOs and the CFOs of the province, to ensure that everybody understands that we still have a serious,

serious problem in terms of fatalities, injuries and illnesses in the province. So you're going to see more social marketing from this organization, certainly as long as I'm involved as chair and I know as long as Jill and her senior management team are on the job, which will be for many years.

The Chair: Thank you. We'll go to Mr. Tascona.

Mr. Tascona: I have nothing to add. I want to thank Mr. Mahoney and his staff for re-attending and taking this process very seriously.

Mr. Mahoney: Thank you very much.

The Chair: Ms. DiNovo.

Ms. DiNovo: I hope that means I get more time.

Thank you for coming again, Mr. Mahoney. I heard an allusion to my colleague Andrea Horwath. Unfortunately, she's not able to be here, but in lieu of her I would like to ask her question, because I heard the question reframed but I didn't hear an answer. So just for Hansard's sake.

The WSIB has the authority under the Workplace Safety and Insurance Act to certify members of workplace health and safety committees and set their training requirements. Every workplace with more than 20 people is supposed to have at least one certified employee on the health and safety committee. She asked, and I ask again, how many workplaces currently aren't fulfilling this requirement?

Mr. Mahoney: First of all, let me say that it was as a result of her questions that we've decided to ask our chief of prevention to make this a top priority across the province and go out and find the workplaces where we do not have health and safety committees in place and where we don't have properly trained and certified reps on those health and safety committees. So I'd like you to express our gratitude to her for making that suggestion, and it will help in our Road to Zero and our attempt to get to prevention.

The specific job of actually doing the training is done through the Ontario Federation of Labour, for example. We provide them with a grant of somewhere in the neighbourhood of \$800,000 a year to do training out in the community, and they do a superb job. In one of my outreach attempts I actually met with a classroom full of people at the OFL headquarters in Toronto where they were undergoing training, and I talked to them for half an hour about some of the issues. So they do a great job.

Our HSAs also provide training for the people in the workplace to ensure that we have the kind of knowledge on the shop floor, if you will, that's required in these joint health and safety committees. But it is the responsibility of the Ministry of Labour, in fact, under the Occupational Health and Safety Act. I don't mean to duck the question in any way whatsoever. We provide the design, the format, if you will, for the training, we provide the grants for the training to be done, but the enforcement of it does belong in the hands of the ministry.

Having said that, I think it's an area where we need to roll our sleeves up and get more actively involved. Current estimates would show—estimates are always

dangerous—that 20% to 25% of the workplaces have either not fulfilled their mandate in this area or are still undergoing it in terms of training. So I agree with your colleague, Madam Chair, with the member who made this suggestion, that this is a critical area for us to improve on in the future.

Ms. DiNovo: So what I'm hearing is a commitment to improve the tracking of these inspections and to look at the results of them. Because surely this is within your mandate to do.

Mr. Mahoney: Well, once again, we work with the ministry, but the inspectors are employees of the ministry, even though we pay for them. It's just one of those anomalies in the relationship that the WSIB has with the ministry. But I can tell you this: In addition to the work that Tom Beegan, our new chief of prevention, is going to do, I'm going to personally bring this up to the minister and say that we should do a better job of making sure that 100% of the workplaces have a good joint health and safety committee and have trained people on that committee.

Ms. DiNovo: Thank you for that. I'm also interested in the universality, of course, of WSIB coverage. I have a graph provided by our own researchers and see that about 69% of the province's workers have coverage. The graph shows that this is the second-lowest rate of coverage in the country. I was wondering, in the future of the WSIB, what plans are in place to deal with that.

Mr. Mahoney: I thought it was 67%, but I'll accept your researcher's number. It's too low, in my view. My view is that if everybody's in the tent, it's going to spread the risk and the responsibility, help us to reduce the premiums and have everybody pulling on the same oar, if you will, in the same boat. However, I must say that it is—there was a comment made in response the other day to my remark that we're not the legislators, that we simply operate under the mandate that's given to us in the legislation. The comment was made that we really are legislators, because we have all this power. The fact is, we have the power to set premium rates; we do not have the power to set benefit levels. That must be done through the Legislature and through legislation. The same thing is true in terms of mandatory coverage. There's currently a paper and a discussion that's been going on on mandatory coverage in the construction industry. I support it.

I'm selfish in this. I have a 32-year-old son who's in the construction business who is a sole operator, but he has four employees, and his employees are all covered and he's not, although he voluntarily makes sure he is, because I told him to. But it shouldn't require that. I also would tell you, just as an aside, that when I arrived in the chair's job, the first thing I did was check to see if all his premiums were up to date. I thank the Lord they were, because I had visions of writing a cheque.

But in all seriousness, the people who are in the trenches who run small businesses like this, who drive the equipment—they're the owner-operators, they're the independents. I really believe they should be covered.

I'll restrain myself from making political comments about who else should be in, but suffice it to say that I do believe it should be much broader than it is at the present time.

Ms. DiNovo: What about tying benefits to inflation? One study that I looked at suggested that 53% of the homeless on the streets of Toronto are actually disabled workers who simply couldn't pay the rent and feed themselves particularly easily because of the lack of this tie-in to inflation. I'm wondering, Mr. Mahoney, if you could comment on that.

Mr. Mahoney: Yes. I would tell you that previous to 1990, benefits, pensions etc. were indeed tied to inflation, to 100% of CPI. It was in 1994 that the government of the day made a decision to bring in what's called the Friedland formula. The Friedland formula determines that benefits will increase by 75% of CPI minus 1%, subject to a cap of 4%. In 1998, the government of that day determined that they would change that, and they put in the modified Friedland formula, which took it to 50% of CPI minus 1%, subject to a cap of 4%, which effectively de-indexed the benefits to the workers.

1150

We have been asked for advice, we've been asked for costings. The question was asked in committee the other day, what would it cost to provide full indexation to CPI levels? It would be \$2.3 billion in total that would be added on top of the unfunded liability. That would be a very difficult pill for the WSIB to swallow.

Having said that, we've done all of the financial models at various levels of indexation, and we've given our advice to the minister. Once again, it's up to the minister and to the Legislature to determine if indeed, through legislative amendment, they're prepared to change the indexation system.

I would briefly tell you a story of a worker who stood up at Bright Lights. You'd probably be familiar with Bright Lights. They're a group of injured workers on the Danforth. I met with about 100 of them in their office. The fellow stood up and he read a letter from us at the WSIB proudly telling him that he was being rewarded with a 0.1% increase in his benefits. It was somewhat embarrassing, frankly, to listen to that story. It's not fair.

We'll see what happens. If it's introduced by the government, it will come on to your table as legislators.

Ms. DiNovo: It's certainly less expensive than keeping somebody on the street, which I think runs about \$40,000 per person per year.

Madam Chair, how many minutes do I have left?

The Chair: About two.

Ms. DiNovo: Great.

Just very quickly, I wanted to ask about this strange thing called "deeming" that occurs. It seems to mean that somebody cannot be paid for not having a phantom job. This was brought to my attention by an injured worker, so I was wondering if you could comment.

Mr. Mahoney: In 1994, when I was still in the Legislature, as the labour critic for the Liberal Party, I published a report called *Back to the Future*, and in there

I addressed deeming. I've asked, as I said in my presentation the other day, that that report be shredded by everyone, because that was then, this is now. However, my position on deeming is consistent. I think it's ridiculous that we deem someone capable of earning their pre-injury wage and yet there's no job where they can actually go to work and earn that same wage from.

Having said that, there does have to be some way of determining when the person is into another job and off benefits. While we're not purely an insurance company, we're also not purely a social welfare company; we have to come down somewhere in the middle of that: find ways to rehabilitate, retrain—the labour market re-entry training that I talked about—get people back into jobs. It's not only about what they earn, because we will supplement the shortfall. If they earned \$20 an hour before the injury and they get a job for \$10, we'll supplement the rest of it to put them back to their pre-injury rate. So it's not just about the money; it's about the dignity of the job, about the fact that you have someone who's trained to operate a lathe who's driving a cab or something of that nature—not that there's anything wrong with driving a cab. You get my drift: We want them to have the dignity of their job, too.

Ms. DiNovo: So am I hearing that you might be in favour or that you're not in favour of someone with a permanent disability receiving benefits for life?

Mr. Mahoney: We operate under three different systems. When we go back to pre-1990, there are people who are on benefits for life. We would adjudicate the level of that injury. That's a different issue than deeming, at least in my mind. The deeming issue is something that needs to be addressed in terms of getting people back into meaningful employment. The decision on the extent of the injury and the length of the benefit is something that would be made through the adjudication process.

Ms. DiNovo: But presumably if somebody is—I hate to use the word—deemed to have a permanent disability, then it's permanent and they would need support for the rest of their natural life.

Mr. Mahoney: Again, that's not really my interpretation of deeming. Deeming is that they're capable of earning the money they were earning pre-injury, even though the job isn't there for them to go to work to earn it. So I don't want some false decision being made.

Once again, the issue of deeming, the level of benefits, all of those things, are matters to be dealt with by the lawmakers—you folks—with respect, and to be introduced by the government of the day, whoever that may be. Whatever that decision is—whether I'm the chair or Jill is the president or John is the COO or Malen is the chief financial officer—whatever it is, we'll do the job.

The Chair: Thank you very much. On that note, we want to thank you for coming back and allowing members to be able to have the discussion that we have. Thank you.

Mr. Mahoney: Thank you very much. We've enjoyed being here and appreciate the opportunity to put some of our points on the record. We will be submitting a letter in

the very near future to the clerk outlining some of the other issues where we perhaps have some disagreement or clarification.

The Chair: Okay. Thank you very much.

INTENDED APPOINTMENTS

WILLIAM MILLAR

Review of intended appointment, selected by official opposition party: William Millar, intended appointee as member, Hamilton Niagara Haldimand Brant Local Health Integration Network.

The Chair: To the members of the committee, we will now deal with concurrence—oh, sorry, with our second interview.

Mr. Milloy: We'll concur with that.

The Chair: Our second interview this morning is with William Millar, intended appointee as member, Hamilton Niagara Haldimand Brant Local Health Integration Network.

I think I can still say good morning to you. Welcome to the committee. As you may be aware, you have an opportunity, should you choose to do so, to make an initial statement, and subsequent to that there are questions from members of the committee.

Mr. William Millar: Thank you, Madam Chair. Members of the standing committee, I look forward to responding to your questions about my potential appointment to the board of directors of the Hamilton Niagara Haldimand Brant Local Health Integration Network. Perhaps I can offer a few words about skills, experiences and insights that I believe I can bring to the important work of that organization.

As you know from my resumé, I spent about 35 years in public education in Ontario, serving in a variety of capacities. My years as a senior administrator, particularly as the director of education in Niagara, provided me with experiences that I believe would be useful to the local health integration network board. In addition to the perhaps expected role in leadership and management, I spent a great deal of my time in communication and consultation with our staff, our students, their parents and the broader community we served. The development of a quality strategic plan with measurable outcomes and the establishment of strong and effective partnerships were very important to me. These experiences relate quite directly to the LHIN mandate.

In addition, since I served in the capacity of director and associate director in the 1990-99 period, you'll be aware that public education underwent some significant changes in those years. Processes of consolidation of services, amalgamation of organizations, changes in governance and significant and rapid change in program delivery that I was involved in not only experiencing but planning and leading taught me a great deal that I believe would be of value to the LHIN board.

After my retirement in 1999, I spent about two and a half years working with the Education Quality and

Accountability Office coordinating the development of the quality indicators program for elementary and secondary schools. I believe there are many parallels between the accountability measures we were developing for public education and those for the delivery of the broad range of health services with which LHINs are involved and for which they are expected to be accountable.

My direct involvement in health care is somewhat modest. I've been a consumer, of course; fortunately, not a significant one. I served for a period of time on a committee working to attract badly needed family physicians to our community. I've been married for over 40 years to a registered nurse, who has worked in both acute and long-term care as well as mental health. But I believe I'm a willing and a relatively quick learner, and I'm keenly interested in serving both my immediate and larger community in this important work: the provision of always scarce resources in the most effective ways possible to ensure the long-term strengths, quality and sustainability of our health care system.

1200

The Chair: Thank you very much. We'll start with Mr. Hudak in rotation.

Mr. Tim Hudak (Erie-Lincoln): Mr. Millar, nice to see you.

Mr. Millar: Nice to see you.

Mr. Hudak: I have known Mr. Millar for some time in his former role of leadership in Niagara. You've decided that retirement is just a little bit too dull?

Mr. Millar: Well, I do look forward to engaging in this kind of thing again, yes.

Mr. Hudak: Welcome to the committee. There's no doubt Mr. Millar has extensive experience and background and organizational qualifications, and that's not my main area of concern. We already have your former colleague, though, Bill McLean, who has pretty much the exact same skill set on the LHIN that you would bring to the LHIN. This is an organization that will soon control significant sums of money. So are we missing a balance here in terms of people with private sector business interests? I respect what you've done, but doesn't Bill McLean already cover those bases?

Mr. Millar: As a matter of fact, he and I have spoken about that, and while there is a fairly obvious similarity in professional backgrounds, I believe that some of the things I've done and perhaps the different approaches that have been taken over the years would bring some different skill sets.

The first one that comes to mind, and I think perhaps the most important, is my work with the Education Quality and Accountability Office on developing quality indicators and the processes of measuring outcomes, especially in a field in which the outcomes are often not as easily defined, if you like, as they might be in the production of widgets, say.

Secondly, our school board at the time prior to amalgamation spent a great deal of time in strategic plan development and then implementation, and in that area

we were quite different as school systems. I believe that process would bring some different skills.

Finally, I believe that I will bring some knowledge of another part of the geographic jurisdiction, from my work there. Those skill sets would perhaps be useful in assisting the board in its decision-making work.

Mr. Hudak: Again, Chair, I have tremendous respect for what Mr. Millar has accomplished in education and in his work since then, his volunteer work in the community—Mr. McLean similarly; an excellent background on the education side particularly—my point being that we are lacking representatives with private sector business experience on the LHIN. Would your advice to the committee be to try to strengthen that aspect of the LHIN management?

Mr. Millar: Certainly, if that's an area that's of concern, yes. I do not profess to have the kinds of insights about the private sector that someone who has spent a career in that would have. I ask you to note that I have for the past several years been involved with the Community Futures Development Corp. as a board member in Welland, and certainly all of our work, except for the funding source, is directly applicable to the private sector. So I have gained some insights there that, frankly, I didn't have before from my background in public education.

Mr. Hudak: It was probably between one and two years ago that we first had the Hamilton Niagara Haldimand Brant LHIN appointees here. What have they accomplished in the last year and a half? What stands out in your mind as a salient accomplishment of the LHIN to date?

Mr. Millar: Well, not being a member of that board, of course, I can't profess to be conversant in that. I have, since getting involved in this process, of course, looked at their bulletins and publications and so on. I'm aware that they have developed their first integrated health service plan. I'm aware from publicity and also talking with Mr. McLean in particular that they've done a great deal of community consultation. They have, hopefully, through that process—I would not be able to evaluate well—communicated their role and perhaps eased some of the concerns that I know are there as a result of the changes in process. Beyond that, I really am not close enough to their workings to know other accomplishments.

Mr. Hudak: There has been a lot of consultation, a lot of hand-holding, a lot of conferences. I'm not clear what the LHINs have accomplished other than that. I'm not sure what they're going to accomplish in the future. I'm a bit skeptical of the exercise. I'm worried it's another middle level of bureaucracy that's actually not going to deliver front-line services, again, with all due respect to your experience, Mr. McLean's and that of other board members. For example, they've spent \$53,000 to date purchasing new furniture or renting furniture for their offices, which they pay \$12,000 a month for, at a time when wait lists are growing longer for many procedures,

at a time when we need more doctors in Niagara, certainly. Isn't this a waste of taxpayers' dollars?

Mr. Millar: I really am not in a position to judge that. I certainly would hope that I would be open-minded enough to be concerned about those potential difficulties as a board member. As an observer, at this stage I see, yes, perhaps another layer, although there were other layers removed, as I understand it, through the legislation that created the LHINs. But also, frankly, from working in public education, I have an appreciation for the attempt, at least, to create an entity that can be closer to the community, that can perhaps be more sensitive to community needs in periods of wholesale change and large amalgamation. In fact, I was intrigued, as I was reading more about this process, about what might have been the case had this been the approach taken in education in our last major change; obviously lots of differences. But I am hopeful, and would not otherwise want to be involved, that it will be an important component of the delivery of quality health care, and in particular in providing that local sense of input to the directions that are to be taken.

Mr. Hudak: Do we have too many hospital sites in Niagara and should the LHIN play a role in making changes to our institutions like that?

Mr. Millar: First of all, from a technical point of view, I believe the LHIN does not have a mandate to close facilities, but obviously, in rationalizing resources and programs and so on, it would have some role to play. As you know, municipalities in Niagara fiercely protect their independence and the resources they have. I'm constantly aware of the concerns of places like the city of Port Colborne in maintaining the hospital services they have. It certainly will be one of the challenges. I'm not in a position to comment whether there are too many sites or too few sites or whether the right services are in the right place. This is what I would hope to learn about and be able to contribute to as a member of the board.

Mr. Hudak: We went through a review process, as you referenced, some time ago and there was an outcry about any proposals to downsize sites in Fort Erie, Port Colborne and West Lincoln. Thankfully people pushed back and were successful in keeping those hospitals open. At that time, there was an accountable, locally elected MPP to put pressure on; there was a Minister of Health who ultimately makes the calls. Now, with the LHINs in place, which are publicly appointed—they're not elected by anybody; they're not mandated to have any profile in the community—if you're looking to take services out of the Port Colborne hospital down the road through the LHIN, or West Lincoln Memorial, where is the accountability mechanism to make sure you're making choices that actually are representative of what people would like to see?

Mr. Millar: I believe that that accountability ultimately will come through the kinds of processes you talked about, where the public will make their concerns known to elected representatives and that kind of thing. In turn, I would hope that the LHINs serve as a some-

what local-level touchstone for the government of the day in terms of the kinds of processes they're supporting or recommending or whatever.

It will be extremely important, I assume, for the board as a whole and individual members to develop, as best they can, a sense of confidence in the community that they have their best interests at heart and are trying to make decisions that are difficult. I know, again, from education experience that we had to close lots of schools in south Niagara over the past 30 years or so. It's a very, very difficult thing to do, especially in a community that sees the school as a hub of much of its activity. All you can do in those cases is take as much input as you can, consider it with as little bias as is possible and try to make the decision that balances between effective program delivery—in this case, health care services—and the economics of the situation.

1210

The Chair: Thank you very much. We have to move on.

Ms. DiNovo: I'm going to pick up where Mr. Hudak left off. I understand it's going to cost about \$55 million a year, starting this year, to operate LHINs. I know that over and over and over again we hear that there's not enough money in the health care system. We hear that from the providers, the caregivers, the unions etc.

I also hear concerns in my community. I was at a LHINs meeting that was supposed to explain this. There was good food, there was a lot of very expensive literature provided, but at the end of the meeting most of the people who attended didn't understand LHINs any better than they did at the beginning of the meeting. I guess my overriding concern is, with \$55 million a year, wouldn't that be better spent going straight into the health care system rather than into this level of what seems to be perhaps not completely necessary bureaucracy? As someone who's going to walk into that, what would your response be?

Mr. Millar: I hope you'll accept that I, of course, didn't have any role in framing the legislation or the regulations or the establishment of these boards. I'm simply a member of the community who's interested in doing what he can to help the quality of health care in my local area and the broader area that the LHIN serves. But it is clear to me, and was clear from the beginning of looking at the materials involved, that this would be an issue raised, if not by members of the Legislature like yourself, certainly by members of the public.

I think it will behoove us to be as open and forthright as possible in terms of what the costs are and what kinds of savings, as anticipated by the legislation, we can make and to ensure that the organization is justifiable in the overall scheme of the costs of delivering health care. I would hope, if it proves not to be so, that maybe one of the strongest sources of feedback will be these LHINs themselves.

Ms. DiNovo: One of the concerns, of course, and it was raised already, is that the LHINs are not elected bodies yet do the work of elected representatives and in

fact our cabinet minister himself, Mr. Smitherman. Yet one might want to ask the question, if LHINs make a decision that the public doesn't like or doesn't want, what is their recourse? LHINs cover a broad spate of the community; they actually cross riding boundaries, for example. What is the recourse for the public if LHINs decide to do something controversial, possibly close a hospital or open another one, I don't know—but if they do, who does one complain to? Directly to Mr. Smitherman or the cabinet? What do you feel about that?

Mr. Millar: As much as I understand that part of the process, I believe the conduit, other than the kinds of methodologies I've seen used at school board meetings and so on of waving placards and making some comments—

Ms. DiNovo: But trustees are elected.

Mr. Millar: Absolutely. As far as I know, the only conduit they would have would be through their elected representatives.

Ms. DiNovo: With my remaining time, I just wanted to go through some of the major concerns. I know that if I were a citizen of Ontario and somebody asked me on the street what the major concerns with our health care would be, apart from being chronically underfunded—I touched on that—they would probably be in this order, and one of them would be wait times. I wanted to ask you about how you think LHINs will address the issue or help with the issue of wait times.

Mr. Millar: As much as I've been able to determine, and you have to appreciate, I hope, that this is somewhat from an outsider's point of view, as of April 1 in the fiscal year 2008-09, I guess it is, we'll have a very direct funding responsibility, and hopefully, that is one of the areas through which they can address this issue; also the rationalization of services that might improve that, although it's a troublesome area in the territory that I would be representing in terms of lack of public transportation and those kinds of things. At any rate, I would hope that through that and through the encouragement of lateral thinking about the whole area and so on they could be addressed.

One of the things that struck me as I looked at this is—while I don't want to minimize the public consultation aspect of it—how important it will be for the LHIN to deal with the current deliverers of health services in the area and to develop a hopeful, trusting relationship with them and among them because, quite frankly, they will be the people who will colour or change or affect public opinion, more so than some action that the LHIN takes on a broader scale. So I really believe that it's through those kinds of connections and encouragement of innovative and creative thinking that the LHINs will be able to address the wait-time issue as well as, hopefully, some of the others.

Ms. DiNovo: I thank you for your patience. I realize, Mr. Millar, you're a soldier and not the general in all of this. But just to continue along that line, one of the answers for the wait-time problem is doctor shortage. Again, with \$55 million a year going into LHINs, I

wonder how this might redress doctor shortage, which is an ongoing problem in this province.

Mr. Millar: I frankly can't think of a way it will. This is an area that is somewhat dear to me because of my work in this area at the community level. The doctor shortage is incredible. We are overjoyed when we attract one doctor, and the community they left is now suffering and it's really not a great situation. I know of some of the efforts being made to try to address that in terms of credentials of foreign-trained doctors and so on. At the moment, I do not see a significant role that LHINs can play in that particular area.

Ms. DiNovo: To sum up, I'm not hearing how LHINs will benefit this province very much. Again, I realize you're the soldier, not the general here, but to conclude, I want to ask: Another major area of concern—it's a concern among those who are in organized labour, it's a concern of the New Democratic Party—is that LHINs might be a way of opening the back door to privatization in terms of accepting competitive bids for services. So I was wondering if you could perhaps speak to that concern as well.

Mr. Millar: Not with any great amount of knowledge. I'm aware, of course, as an observer of these things, that that's a concern. As a person with a long-term background in publicly funded institutions, I have not seen in these areas many good examples of private sector delivery that save money, so I guess coming in I'll state my bias that it would not be a strong suit on my part. On the other hand, getting inside the process and understanding the demands and perhaps being enlightened in areas that might be cost-saving, I'm not going to be totally intransigent, but it's not a leaning I have at this time.

Ms. DiNovo: How much time do I have, Madam Chair?

The Chair: One question.

Ms. DiNovo: Okay, perhaps I'll just use my time to sum up what I think I've heard and perhaps you can comment on if I've heard incorrectly. I've heard that, as I said, LHINs are going to cost \$55 million a year to the taxpayer, money that could go directly into the health care system; that we're not clear on how they're going to address the major concerns of our health care system—wait times, doctor shortage; I could go on, there are others—and that they in fact might be a way to opening the back door to privatization. So I'm a little concerned. I'm concerned for your well-being, Mr. Millar, walking into that organization, and I certainly wish you the best.

Mr. Millar: Thank you. I would just add that that summary wasn't heard from me. Hopefully, I'll be able to bring my thoughts to bear to all those very important issues.

The Chair: Thank you very much. We move on to a government member.

Mrs. Mitchell: Thank you, Mr. Millar, for putting your name forward. We sincerely do appreciate it. I want to give you the opportunity to talk about why you did put your name forward.

1220

Mr. Millar: Well, a couple of things. I really enjoyed the opportunity when I first retired to continue working in a public education capacity. It was a great way of ratcheting down, if you like, from a fairly busy lifestyle. But in recent years I've become a little bit hungry, frankly, for some more involvement in policy-level thinking, in strategic thinking, and in looking at big-picture items. From a selfish point of view, I get a lot of charge out of that kind of thing. So that was certainly one of the reasons.

Secondly, my work with the medical recruitment community, while it was focused primarily on recruiting family physicians, did get me intrigued about health care in general and what a tremendous resource it is for us and, at the same time, a challenge in terms of its cost and effectiveness of delivery. So when I learned through my friend, frankly, of this potential involvement, it seemed to be a good fit for me.

Mrs. Mitchell: Certainly the official opposition talked about the strengths that you will bring to the table in your governance. You talked about measuring outcomes. That was one of your strengths. How do you see that role expanded in the work of the LHINs?

Mr. Millar: As you know, there is to be the establishment of accountability agreements, both from the LHIN to the ministry as well as to the health service providers, and a requirement for an accountability process to be established. Accountability, particularly in the measures of specific outcomes in the areas where the outcomes are, if you like, soft, in that they're not always easily and readily identifiable, represents a tremendous challenge. There is a real danger in trying to look at services such as health care or education or others in the same way we might a production line kind of output. At the same time, there's also a danger of backing off from measuring outcomes because of that. I think I can bring some insight into how that whole area can be balanced, from both my work directly in education systems as well as the consulting work with the Education Quality and Accountability Office.

Mrs. Mitchell: Very good. Certainly you have a strong sense of community. You talked about all the work that you have done in the community. So you know what the communities need and how they will move forward, as you talked about the work that you have done in the past in the education system.

But as a consumer—I'm sure that's part of why you put your name forward as well. I know that in the riding that I represent, we have worked toward an integrated system for a very long time. Moving towards an integrated system only strengthens our health care system. Do you have thoughts on that? You talked about global thinking, and in my mind an integrated system strengthens the health care system. What are your thoughts on that?

Mr. Millar: I believe that absolutely, and not just because the resources we will always have to deal with are scarce, but because I think there are opportunities to

improve effectiveness, as well. It's a challenge, however, to balance that against people's concerns about accessibility, whether they be ones of geography or other kinds of access. So I think that's one of the challenges of the integration network concept: to ensure on the one hand that integration is taking place that improves the quality of the service and that hopefully makes it more cost-effective but, at the same time, doesn't put inadvertent barriers in the way of people accessing those services. It's that kind of a balancing act that I think we would be involved with in the LHINs.

The Chair: Thank you very much for coming today. You may step down.

Mr. Millar: Thank you very much.

The Chair: We will now deal with concurrence.

We will now consider the intended appointment of William Millar, intended appointee as member, Hamilton Niagara Haldimand Brant Local Health Integration Network.

Ms. Smith: I move concurrence of William Millar as a member of the Hamilton Niagara Haldimand Brant Local Health Integration Network.

The Chair: Concurrence in the appointment has been moved by Ms. Smith. Any discussion?

Mr. Hudak: I want to add some comments to my earlier questions. I have known Mr. Millar for a significant number of years now, probably about 20 years or so. He's a man of great credentials, he's been an excellent public servant in education at the EQAO. He's also held in high respect in the community, and I'm pleased to support his appointment to the LHIN on behalf of the official opposition.

I do want to register some concerns, as you could hear from my questions. Mr. Millar will be the eighth appointment to the Niagara LHIN. He brings a lot of strengths, as I discussed. Mr. McLean has a similar background and brings a lot of strengths to the board. I'd like to convey to the Minister of Health that I hope the ninth and final appointment to the LHIN will bring a different skill set. Somebody with some extensive private sector or small business background would be a nice strength to add to the LHIN board, which has been strengthened in public service by Mr. McLean and Mr. Millar, among others. I just want to pass on that request.

Secondly, I'd like to pass on the request that the chair, Juanita Gledhill, return to this committee. She was appointed on June 2, 2005, almost two years ago. I'd be hard-pressed to say publicly a single thing the LHIN has accomplished in that time period, aside from a series of meetings and consultations. I know they've had a series of conventions and get-togethers in Toronto at taxpayer expense. We will note that LHIN appointees are paid \$200 per diem, with the chair being paid \$350 per diem. That's a considerable taxpayer expense and I'm not clear, in terms of tangibles to the senior citizen who wants to have her surgery or to the new family that has moved to Niagara how this has helped them get to see a doctor or other kinds of health care.

I understand that the LHIN we're speaking of today has an annual budget of almost \$4 million. They have quickly staffed up, by my count, to 18 staff, which has also caused an expense for things like rent and the purchase of furniture of \$53,000. That's an awful lot of expenditure in an administrative capacity.

If I understand what the LHINs are to do, I think their single biggest step after all the hand-holding and expenditure of taxpayer funds is next to basically put an address and a stamp on an envelope and mail out the cheques to various health care delivery agencies. It's all well and good that they'll be playing a role, but I don't think they've actually made any decisions on allocating those funds any differently and basically are acting as middle managers with those envelopes that would normally be directed from the Ministry of Health, figuratively, to the agencies in question. So I'd like to pass on this request.

I'm pleased to support Mr. Millar. I think he is certainly well qualified, but I think the chair should come back to this committee and explain exactly what she has accomplished with all this expenditure of taxpayer dollars.

The Chair: Thank you. Any other discussion?

Ms. DiNovo: Yes, definitely. Mr. Millar, I understand you are a very competent individual from my colleague, Mr. Hudak. He suggests that you're probably the best person to do this job. The question is with the job you're being called to do and the question is with the LHINs themselves.

Again, we have serious concerns that the LHINs are simply the first step toward the privatization of some as-

pects of our health care. We have serious concerns that these are not going to address the major concerns about health care, and those are the concerns of our constituencies, which are wait times, doctor shortage. I know at St. Joseph's Hospital in my riding they are turning away 40% of folks who need rehabilitation treatment. This is due to lack of funds. At a cost of \$55 million a year, I think most taxpayers in Ontario could think of better ways of spending that money. As New Democrats, we don't have anything against regionalization. We've seen this in effect in other provinces, perhaps more effectively than the LHINs purport to do it here.

My hope for you, Mr. Millar, is that you bring all these concerns to the LHINs and that you make sure that the worst of our fears don't materialize. With that, I'd give concurrence as well.

The Chair: Any other discussion? Mrs. Mitchell.

Mrs. Mitchell: Just a quick comment. It's nice to see that we all going to agree on concurrence. So I thank Mr. Millar for putting his name forward. Good luck.

The Chair: Any other discussion? If not—

Interjections.

The Chair: Excuse me. We must complete the formalities here.

All in favour? Opposed? The motion is carried.

I believe we have no other business, except I would just remind members of the committee that there will be a need for a subcommittee to meet. Our next meeting will be March 21, so this committee stands adjourned until March 21 at 10 a.m.

The committee adjourned at 1230.

CONTENTS

Thursday 1 March 2007

Intended appointments

Mr. Philip J. Olsson	A-551
Mr. William Millar	A-563
Agency review: Workplace Safety and Insurance Board	A-555
Workplace Safety and Insurance Board	A-555
Mr. Steve Mahoney	

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52

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Wednesday 4 April 2007

Journal des débats (Hansard)

Mercredi 4 avril 2007

**Standing committee on
government agencies**

Intended appointments

**Comité permanent des
organismes gouvernementaux**

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

Wednesday 4 April 2007

Mercredi 4 avril 2007

The committee met at 1001 in room 151.

SUBCOMMITTEE REPORTS

The Chair (Mrs. Julia Munro): Good morning, everyone, and welcome to the standing committee on government agencies. I'd like to begin with our first order of business, which is the report of the subcommittee on committee business dated Thursday, March 1, 2007. Can we have somebody to move its adoption?

Ms. Monique M. Smith (Nipissing): I move acceptance of the subcommittee report dated Thursday, March 1, 2007.

The Chair: Is there any discussion? If not, all in favour? Opposed? The motion is carried.

The next order of business is the report of the subcommittee on committee business dated Thursday, March 15, 2007.

Ms. Smith: I move acceptance of the report of the subcommittee on committee business dated March 15, 2007.

The Chair: Any discussion? If not, all in favour? The motion is carried.

The next order of business is the report of the subcommittee on committee business dated Thursday, March 29, 2007.

Ms. Smith: I move acceptance of the report of the subcommittee on committee business dated March 29, 2007.

The Chair: Is there any discussion? Seeing none, all in favour? The motion is carried.

INTENDED APPOINTMENTS

KEN JEPSON

Review of intended appointment, selected by official opposition party: Ken Jepson, intended appointee as member, Landlord and Tenant Board.

The Chair: We will now move to the appointments review. Our first interview is with Ken Jepson, intended appointee as member of the Landlord and Tenant Board. Mr. Jepson, please come forward. Good morning, and welcome to the committee. As you may be aware, you have an opportunity, should you choose to do so, to make an initial statement. Subsequent to that, there are questions from members of the committee, and today we will be commencing with the official opposition. Each party

will have 10 minutes allocated for questions, and we will go in rotation. As is also the practice of this committee, any time you take in your statement will be deducted from the time allotted to the government party. Please begin.

Mr. Ken Jepson: Thank you very much, Madam Chair. Good morning, everyone. I'm pleased to have the opportunity to meet with members of the committee to review my qualifications and to answer your questions. I have a brief statement, as is, I gather, customary, and I propose to take a few minutes to outline some of my qualifications.

The work of the Landlord and Tenant Board is very important. It affects an element of people's lives that is very central to them. For tenants, it's about their home. For landlords, these decisions can affect their livelihood, and in some cases their own personal living situations as well.

I consider it a privilege to be proposed for appointment to the Landlord and Tenant Board. At the same time, I am confident that I have the right set of skills and experience to fulfill the duties of adjudicating for the board, and I'm hopeful that after having met with me today, the members of the committee will share that confidence.

I understand you all have a copy of my resumé, and if anyone does not, I have extra copies if anyone requests one. As I said, I just propose to use this time to review and highlight a few elements of my background that are relevant to this role.

I was born and raised in Ancaster, Ontario, and I have since lived in London and also in Burlington, and since 1992, I have been a resident of Toronto.

My academic training is in the arts and philosophy, education and the law. I obtained an honours BA with a specialization in philosophy from the University of Western Ontario, graduating in their scholar's electives program. I later received a bachelor of education from Western, following which I taught at both the elementary and secondary school levels.

I received my law degree from the University of Toronto in 1995 and was called to the Ontario bar in 1997. During my time at law school, I volunteered with the school's legal clinic where I advised on residential landlord and tenant matters, among other matters. Since my call to the bar, I have gained diverse experience in both private practice and in the public sector. I have practised in several downtown Toronto law firms, and I

have experience in a number of different areas of the law, quite a broad range of areas, including, but not limited to, insurance law, commercial litigation, employment and labour law, construction law, and commercial landlord and tenant matters.

In recent years, my legal career has evolved such that I have come to focus on administrative law, and I have developed some specialized expertise in administrative justice. This began when I became counsel to the Workplace Safety and Insurance Appeals Tribunal, or WSIAT, as it's often referred to. As you likely know, that tribunal hears the final appeals from decisions of the Workplace Safety and Insurance Board on workers' compensation matters and related insurance matters. It is one of the busiest of Ontario's adjudicative tribunals.

As associate counsel to the chair, my role at WSIAT was to work very closely with the adjudicators to assist them in their decision-making and their decision-writing functions. I did this in a number of ways. I assisted with questions about interpretation of legislative provisions, providing necessary research concerning the tribunal's case law, which is actually fairly extensive. I also reviewed draft reasons and gave feedback on really two key aspects of those reasons: legal issues themselves contained within the reasons, and persuasiveness.

Because a large part of my work involved critiquing written reasons, I developed through that work a very strong expertise in judging the persuasiveness of administrative decisions. I learned a lot about what constitutes a sound, fair adjudicative decision, both in terms of the reasoning itself and the way in which that reasoning is conveyed. Being a close adviser to adjudicators also allowed me to really learn how natural justice principles play out and are applied in practice.

In addition to the advisory and research aspects of my work at WSIAT, I was also involved in planning and delivering training for the WSIAT adjudicators, and obviously my teaching experience helped me greatly in that regard.

I found that the work at WSIAT was very rewarding, and when I asked myself why that was so, I realized that I have tended to gravitate towards and have a greater interest in those areas of the law that typically affect "everyday people" in a very direct way. For me at least, there is a contrast between, for example, an area like employment law and workers' compensation law, where you are dealing with a very direct impact on individuals and often small to medium-sized businesses, and something like a large corporate transaction or a large piece of complex commercial litigation, where the impact on individuals is much more indirect. I believe this contrast is one of the main reasons that I felt such a good fit working in an administrative tribunal, obviously being more in the former category. Like workers' compensation or employment law, the balancing of residential landlord and tenant interests is also an area of law that has a direct and potentially very significant impact on the lives of ordinary people.

I should mention that during the time I was at WSIAT, I completed the week-long adjudicator training program

that's offered by SOAR. Many of you may be familiar with SOAR, the Society of Ontario Adjudicators and Regulators. I have also completed the dispute resolution training provided by the Ministry of the Attorney General's dispute resolution office.

1010

I worked at WSIAT on a series of contracts for over four and a half years. Shortly after the last of those contracts expired, I was fortunate enough to receive a part-time appointment to the Licence Appeal Tribunal as a part-time vice-chair. You probably all have familiarity with the work of that tribunal. As an adjudicator at LAT, as I shall refer to it, I was able to use all the knowledge and experience I gained at WSIAT about administrative justice, decision-making and decision-writing in a very direct way. I found it a smooth and very natural transition.

From my work for LAT, I have direct experience, then, adjudicating, including running complex hearings with multiple parties, making evidentiary rulings, dealing with both represented and unrepresented parties, and generally controlling the hearing process. Of course, my knowledge of decision-writing also was applied at LAT.

When I took on the part-time appointment at LAT, my plan was to supplement that adjudication with some part-time workers' compensation private practice and research work. As events played out, private practice workers' compensation did not prove to be feasible in the way I'd hoped, and I was left with just doing the part-time Licence Appeal Tribunal adjudication. Since it was only part-time and paid a fairly small per diem, I was forced to look for other income to make ends meet. I became aware of an opportunity with Osgoode Hall Law School that would allow me to combine my education and teacher training with my legal skills.

In March 2005, I accepted my current position as a program lawyer with Osgoode Hall Law School's professional development program. What I do for Osgoode is research, plan and oversee the execution of continuing legal education programs for lawyers and occasionally some non-lawyers who are interested in legal education programs. Although the areas in which I do programming for Osgoode can run the full gamut, I have tended to focus to some extent on programs within the areas of civil litigation, public law and administrative law.

I believe a good adjudicator must possess a specialized tool kit of skills, abilities and knowledge. I hope I have highlighted how my education and work experience, particularly the work at WSIAT and LAT, have provided me the opportunity to acquire this knowledge and to develop these skills.

As I've also noted, I do feel that the work of the Landlord and Tenant Board—the balancing of the respective interests—is something that makes a significant difference in many people's lives in Ontario. This is both the reason that the work, in my view, is so important and also the reason that I'm attracted to making a contribution in this area.

I thank you for the opportunity to take these few minutes to review some of my qualifications and I look forward to any questions you may have.

The Chair: Thank you very much. We'll go first to Mr. Tascona.

Mr. Joseph N. Tascona (Barrie-Simcoe-Bradford): Thank you, Mr. Jepson. I appreciate your coming here today. Just to start off, do you have any political affiliation at all?

Mr. Jepson: I took out a membership in the federal Liberal Party last summer, around July, I believe. Other than that, I've never been particularly politically active and have not participated in any riding associations or anything of that sort.

Mr. Tascona: Any political contributions?

Mr. Jepson: Other than the cost of that membership, no.

Mr. Tascona: Where do you reside?

Mr. Jepson: In downtown Toronto.

Mr. Tascona: You've got an extensive resumé and experience. I'd like to know how you found out about this appointment and who you dealt with to come forward.

Mr. Jepson: I found out about the potential need for adjudicators because I was organizing an administrative law continuing legal education program as part of my current job last October. The organization for that would actually be taking place much in advance, so the initial contacts were probably back in May 2006, almost a year ago.

One of the people who I engaged as a speaker for that program—I engage a number of volunteer speakers, in this case, from administrative justice, the community of administrative lawyers—was Dr. Lilian Ma, who was the chair of what was then the Ontario Rental Housing Tribunal. I ended up chatting with her quite a bit at the time that I engaged her as a speaker in the summer, and she then came to speak in October as part of a panel and we ended up talking a little bit in a break in the program. In one of those conversations—I think it was the latter conversation—I learned that the tribunal had a push to acquire quite a few more adjudicators for what was then going to become the Landlord and Tenant Board.

Mr. Tascona: So you applied—it looks here like it was received November 9, 2006.

Mr. Jepson: That conference was on October 4-5 or 5-6, I believe, 2006. Within about a week or two of that, I sent my resumé to the Public Appointments Secretariat and to the tribunal.

Mr. Tascona: Whom did you deal with from there?

Mr. Jepson: From the Public Appointments Secretariat?

Mr. Tascona: Yes.

Mr. Jepson: I don't recall who actually responded to the resumé. I received probably a standard acknowledgement letter saying that it would be considered. I believe I actually did it electronically through the online Public Appointments Secretariat.

Mr. Tascona: Did you deal with anyone from ministry staff directly?

Mr. Jepson: No. I didn't actually meet with anybody at the Public Appointments Secretariat.

Mr. Tascona: Did you communicate with anybody from the secretariat verbally?

Mr. Jepson: No.

Mr. Tascona: How did you find out that you were being appointed?

Mr. Jepson: I guess at a certain point, after the process of interview and all the substantive process that went on at the Rental Housing Tribunal, I received notification at some juncture. I can't honestly remember if I received it first by contact through the board or from the Public Appointments Secretariat, but at some point I received notification that I had been recommended.

Mr. Tascona: Who interviewed you?

Mr. Jepson: I interviewed with Dr. Lilian Ma, the chair of the tribunal, and two vice-chairs, Murray Graham and Guy Savoie, I think.

Mr. Tascona: This is a full-time position, I understand. Are you aware of what the compensation is for this position?

Mr. Jepson: I think it's in the neighbourhood of \$83,100—something like that.

Mr. Tascona: And for what term, did they tell you?

Mr. Jepson: It's a two-year term, I believe.

Mr. Tascona: If you get this appointment, will you be continuing in any of your current professional activities?

Mr. Jepson: Do you mean with Osgoode? No. That wouldn't be possible. My work with Osgoode is actually full-time and then some, so the two could not be combined in any way.

Mr. Tascona: So you won't be working with a law firm or anyone else?

Mr. Jepson: No.

Mr. Tascona: Have you ever been a landlord or a tenant?

Mr. Jepson: I have never been a landlord. Like many people, I have been a tenant at one time.

Mr. Tascona: I think you indicated that when you went to law school you were working with a clinic in terms of landlord and tenant matters.

Mr. Jepson: Yes. At that time, of course, it would have been a different legislative regime. I believe that was in the days of the Landlord and Tenant Act. Residential tenancies were contained in what was then part IV of the Landlord and Tenant Act.

Mr. Tascona: Recently in the Legislature, we debated a resolution that called for landlord licensing. Are you familiar with that?

Mr. Jepson: No, I haven't heard about that proposal.

Mr. Tascona: What do you think about that idea?

Mr. Jepson: Obviously, since I haven't heard the proposal, I don't have any information about it. I would have to have a lot more information in order to form a useful opinion, I think. Maybe you could expand on it a little bit and give me some information about what the proposal is.

Mr. Tascona: Well, it's basically to deal with bad landlords and developing a list in terms of work orders and things like that, so that people have knowledge of what they're getting into and so the tribunal can also sift them out.

Mr. Jepson: I don't have any initial opinion on that, because I think there are a lot of parameters one would have to consider. Obviously, the impetus is perhaps salutary to trying to form some sort of register, but I think there are a lot of parameters that would have to be considered. It's probably more a matter for policy-makers and legislators than for—obviously it wouldn't be something I'd be considering in this role as an adjudicator.

Mr. Tascona: Yes. Given the issues that are currently creating much attention at a government agency, the Ontario Lottery and Gaming Corp., do you feel it's important that the Landlord and Tenant Board provide to the public the statistics, summaries and other materials related to the decisions that are made?

Mr. Jepson: I think there are actually two different things there. You mentioned statistics and decisions—the full text of decisions. My understanding is that at present they do not offer full-text decisions. They still offer summaries that are contained in the annual report. All considerations aside—and there are a number of parameters that have to be considered—as a baseline proposition, I think it's a good thing for full-text decisions to be widely available. It has a number of positive effects. From the point of view of sound adjudication, it's nice if parties can access those decisions and, therefore, in appropriate cases, cite them to you. It helps them perhaps to analyze their own cases.

1020

Mr. Tascona: What about statistics, though, to give people a reason, where the tribunal's going?

Mr. Jepson: Statistics? The reason I said—sorry. Go ahead.

Mr. Tascona: Statistics in terms of getting a feel for how they decide things and what they've been deciding.

Mr. Jepson: Statistics, I feel, are perhaps not as useful. I believe that WSIAT, where I worked, did publish some statistics, and because I worked inside that tribunal and then saw the statistics, I had a chance to see that it's easy for them to be misinterpreted unless you know all of the details, nuances and background.

I don't think it's necessarily a terrible idea, but I think there are some drawbacks, potentially, that have to be looked at very closely, how much information is being given with the statistics and so on.

Mr. Tascona: Do you want to give me an example of a drawback?

Mr. Jepson: As I just mentioned, for instance, if you have statistics about outcomes, just bare outcomes that are not linked to the type of application or the subtype of application, then the information can potentially be misleading.

Mr. Tascona: Okay. What effect do you feel rent controls have on affordable housing?

Mr. Jepson: I don't feel I actually have the requisite information to give a really informed opinion about that. The policy-makers and legislators have had to look at that repeatedly over the years. I think that relationship is a complex one. I feel they're in a better position than I am to make that judgment.

I would just point out that I remain acutely aware that this is a position where I would be an adjudicator. In my own view, it's very important that myself and anyone adjudicating really keep clear about how that function is a delegated function and you are only a creature of statute, so your role is to apply the statute that exists.

Mr. Tascona: Do you have any knowledge of the current statute? Because they did make changes.

Mr. Jepson: Yes. Obviously, if I receive the appointment, I will be receiving extensive training and I will be learning a lot more, but I have some initial knowledge. I am certainly aware that the RTA brings in certain changes relative to the former Tenant Protection Act.

Mr. Tascona: Do you have any familiarity of how they—procedurally, have you ever represented anyone in front of the tribunal?

Mr. Jepson: Not this tribunal. As I said, when I was doing landlord-tenant work back in the clinic, it wasn't this set-up.

Mr. Tascona: So you have no real opinion in terms of what may be improved or what could be done in terms of procedure or how they operate in a hearing?

Mr. Jepson: No. I know it's clear that some of the changes brought in with the RTA that I've looked at are meant to address, among other things, what must have been perceived as procedural issues, and whether they successfully do so, I would suspect, obviously remains to be seen, because that's a very new legislation coming before us—only at the end of January. It will take some time to see whether those changes actually have the positive effects that presumably, let's hope, they would have.

The Chair: Thank you very much. We've run out of time. Ms. DiNovo.

Ms. Cheri DiNovo (Parkdale-High Park): Thank you, Mr. Jepson, for appearing before us. We know you are a member of the Liberal Party but we hope that, in the delegation of your duties and the duties themselves, you would be non-partisan. You certainly have the Ombudsman as a wonderful example of someone who fulfills his task extremely well.

I'd like to start off with asking you what you feel about the Residential Tenancies Act. What do you think about it?

Mr. Jepson: Can you be more specific? I mean, it's a broad act. It takes a fresh look at this regime and, as I understand it, brings in quite a number of different changes and adjustments. Is there anything specific that you're referring to?

Ms. DiNovo: What jumps out at you? What would you see as some of the benefits and what perhaps would you see as some of the negatives of this move?

Mr. Jepson: I would add, I guess, the initial caveat that I'm not sure I'm well placed to say what will be a benefit and what will be a negative, and I'm not sure anyone will be until it's been in place for a while. But you ask what jumps out at me. I think the thing that to me is one of the most significant changes is the fact that default eviction orders are eliminated in all cases. Whether or not the tenant has filed a reply, there is going to be a hearing. Procedurally, I know from speaking with people at tribunal that that obviously is going to make a big difference in the scheduling, in the number of hearings, and for all the parties involved. It's going to change things a lot. It remains to be seen how that will work out. But that's certainly a significant change, and it's a change substantively because it means that a number of applications that previously would not have been heard on their merits will now be heard on their merits in some form.

Ms. DiNovo: It sounds like you are favourably disposed to the Residential Tenancies Act. Am I correct in that?

Mr. Jepson: As I said, I really wouldn't be able to say that because, first of all, I don't feel I have the requisite intimate familiarity with that act, which I will, if I'm appointed, shortly be acquiring. Being a lawyer, I'm always very cautious about the holes in my knowledge. I only have an overview of the act, the parts that I've attempted to look at. So I don't have a strong view as to whether it will be successful. What I can say, as an overview in my observations, is that it's not a wholesale change in the entire regime. It looks as if there's been an attempt to make a number of surgical changes to address issues that have been identified, and whether those are successful in helping to create the right balance between landlord and tenant interests, I think we'll have to wait and see.

Ms. DiNovo: Certainly in my riding of Parkdale-High Park, there are a great number of tenants and a great number of tenant issues, and some very deep concerns and some vociferous opposition to this act. One of the concerns—I'll just go through them and I would love to have you comment upon them—is that we're looking at evictions now, really, at record highs in the city, and that seems to be a change. So I was wondering if you would comment about the increase in evictions.

Mr. Jepson: I actually don't have any real opinion on that because I don't have the information and the statistics. I would also add that I would be very cautious in giving an opinion on something like that because my role, again, if I'm appointed to this board, requires that I adjudicate, and I'm very careful to adjudicate only on the facts of the case before me. Broad, general statistics like that—I suppose one might imagine the very unusual case where they're actually led as evidence, but otherwise, they would be irrelevant considerations; one has to focus on the individual facts. So I'd be very cautious about looking at those generalized statistics.

Ms. DiNovo: Well, certainly they're out there for public knowledge: an 8.7% increase between 2004 and

2005, 10.7% in Toronto alone; and again in 2006, another increase on top of that. So I'm just wondering, on behalf of tenants out there—I'm a landlord and I have been a tenant, so I think that I can speak somewhat impartially on this.

The other concern, of course, is the rental deposit change. Now when a tenant gives first and last month's rent—which is common—when they take over a unit, they're not getting as much back on their money at the end. Again, I wondered what you thought about that, the fact that tenants are being penalized on the interest on their deposit.

Mr. Jepson: My understanding is that with that change, now the interest will be based on the annual rent increase, which itself is going to be the CPI. That's my understanding. I don't have any strong opinion one way or the other as to whether that's a good idea because I don't know the policy reasons behind the change from the prior regime and what were exactly identified as the problems. Again, that's a matter for policy-makers and legislators to look at. It's not that it's unimportant, but I don't think that it's appropriate for me to comment on it as an adjudicator.

Ms. DiNovo: Obviously, we in the New Democratic Party are in favour of real rent control, which is unit rent control, and not based on the person who's doing the renting so that there's inducement for the landlord to move them out to get higher rent with the next tenant.

But to move on from that, the process of the hearing itself: Landlords, particularly large landlords, tend to have larger purses than the average tenant, so they tend to have, for example—many of the large ones—lawyers on hire, whereas a tenant does not. The process itself of appeal, I'm wondering if you could comment upon that, particularly in light of, for example, my own riding where many of the tenants are recent immigrants and can't speak English very well.

Mr. Jepson: If I understand your question correctly, I wouldn't be able to comment specifically on the process as it has been at the tribunal because, as I indicated to Mr. Tascona, I have not appeared there, so I don't want to suggest that I'm speaking from experience in hearings.

1030

I guess what I would say, from the point of view of what I believe is important for adjudicators, in my experience as an adjudicator and as an adviser to adjudicators, is that one of the qualities adjudicators should have is the ability to communicate well with a variety of parties of a wide variety of sophistication. Part of implementing the principles of natural justice in a hearing, if the adjudicator is doing the job well, is to ensure that regardless of how the person is represented or if they're represented at all, they have an opportunity to receive notice of what the issues are, of course, to be heard and to have an opportunity to test the evidence of the other side. I do think it's possible to do that in almost any hearing set-up, provided that one is careful to apply those principles.

Ms. DiNovo: I'm reassured to hear that because, again, many tenants go before these tribunals not know-

ing what the rules are, what their rights are, and up against some pretty sophisticated legal expertise on the other side, so it's not really a fair game. My hope would be that you would be a little partial on the tenants' side in that situation.

I'm also concerned too—and I know you haven't been involved in this yet, but again, carrying forward into your duties—about the lack of transparency. Mr. Tascona touched on this, the fact that we can't get our hands on statistics, summaries of decisions. In the interest of transparency and accountability of the board, we would very much like to be able to see summaries of decisions, the reasons for decisions and statistics coming out of that. How do you feel going into this about the transparency of the process? I know you haven't been there, but just in general with your legal background.

Mr. Jepson: Are you asking about decisions and statistics?

Ms. DiNovo: Absolutely, yes, and the ability of the public to be able to see statistics on decisions and summaries of the basis of those decisions.

Mr. Jepson: I think I would just reiterate what I said to Mr. Tascona, which is that, in principle, it's usually a good thing at the starting point for decisions to be available. I didn't get into this in my answer to Mr. Tascona, but there are, however, other considerations when one looks at that, including costs and administrative problems. In fact, I actually understand that there's been an effort to make Landlord and Tenant Board decisions available through Quicklaw, and there is some sort of technical problem with that which I can't comment on. As a starting point, I think it's a good thing, but there are issues. It's not necessarily a simple thing to just go ahead and do that. There are costs, there's administration and so on. So those are issues, I think, for the chair to weigh and consider when deciding whether to make those changes.

The Chair: Thank you very much. That concludes the time allocated. You may step down.

Ms. Smith: Did he use all his time?

The Chair: About 30 seconds—

Ms. Smith: Okay, that's fine. I was just wondering. Thanks.

The Chair: Thank you.

GARY CARR

Review of intended appointment, selected by official opposition party: Gary Carr, intended appointee as member, Greater Toronto Transportation Authority board of directors.

The Chair: Our second interview is with Gary Carr, intended appointee as member, Greater Toronto Transportation Authority board of directors. Good morning, and welcome to the committee. As I'm sure you're aware, you have an opportunity, should you wish to do so, to make an initial statement, and subsequent to that there are questions from members of the committee. Each party will have 10 minutes allocated for questions and we'll go in rotation. As is also the practice of the com-

mittee, any time you take in your statement will be deducted from the time allotted to the government party. Please begin when you're ready.

Mr. Gary Carr: Thank you very much. It is great to be back and seeing my old friends—as many of you know, I spent a number of years here—not only friends around the table but those who are working in the back, as well as our fine clerk and you as well, Madam Chair.

I won't take a great deal of time. As some of you do know, I was an MPP at Queen's Park for 13 years. I was elected in 1990, re-elected in 1995 and then re-elected in 1999, so I spent about 13 years here. I was also Speaker for four years, the last four years prior to the election. I spent a little bit of time as an MP up in Ottawa, and in November of last year, I was elected regional chair in Halton. For those of you who don't know, in Halton we do elect the regional chair. The fine region of Halton is made up of Halton Hills, Milton, Oakville and Burlington.

One of the reasons I was appointed to this is that council endorsed a unanimous resolution to send me as chair to the GTTA. We have had a history of doing that. My predecessor as regional chair, who is now an MPP here, Joyce Savoline—for those of you who don't know—was on the GO board. So it's our hope and intention that as part of the region we can participate. In fact, some of the other members include my good friend Bill Fisch, the chair from York, and Roger Anderson from Durham, who has become a good friend. The reason my name was put forward was twofold: (1) that I was elected by the good people of Halton; and (2) the council endorsed me with a unanimous resolution.

With my background of spending about 15 years now—17 if you include back to 1990—in political life, I believe I can contribute to this particular committee, and it would be my hope that people around the table would endorse the recommendation of the council to put me on that board.

With that, I'll open it to questions. Again, it's great to be back and to see everyone. I say this in all sincerity: I really did enjoy my time here and I really do miss you. The good news is that at the region we still have a lot of interaction with the province, including a lot of the social programs, so I do get a chance to see a lot of the folks around the table whom I knew previously, even those that weren't elected. Thank you for having me here today.

The Chair: Thank you very much. We'll begin with Ms. DiNovo.

Ms. DiNovo: Thank you, Mr. Carr, for coming and sitting before us. You know what the process is like; you've been on this side.

Just to begin with, about the transparency of public consultation, if you could say a few words about what the public's role should be in developing a transit strategy and how that should be carried out.

Mr. Carr: That's a very good question. I went to the first meeting of the GTTA because they are open. The press and everybody was there. One of the things that all

of them stressed, and I think it was Roger Anderson in particular, was that all the meetings of the GTTA should be open unless you're dealing, like you do on council, with some type of personnel matters or property. And while I couldn't vote because I hadn't been endorsed by this committee, I did go and participate. I must say—and I'm not just saying this—we do have a really good board. The two chairs and the mayor were there, and the chair of the TTC. One of the things that they did stress is that we are going to have an open process.

And one of the things I did like too—and again I will say this; it's no secret—was that people like Hazel McCallion, Mayor Miller, the two chairs, are very, very outspoken, they don't pull any punches. That's what I admire about them. I said that to all of them. We sometimes will disagree on things, but you always know where you stand with them. I must admit I was very impressed. I didn't know Adam from the TTC, but having listened to him at the meeting, I was very impressed with the people around there, as well as Paul Bedford, who was a planner with the city of Toronto. So it's my hope that we will get the public involved in the process.

One of the things that came out as a result of that meeting—again, it was open to the press and everybody—is that they really are not going to try and reinvent the wheel. They're going to take a lot of the work that has been done in the GTSB, which really looked at it.

The other thing I will say is that that my hope was—I was here during the 1990s, when it was a very, very difficult period of time financially. We had huge deficits here and at the federal government. The good news is that we're out of that now and we're hopeful—and I'm not telling tales out of school, but what came at the first meeting is that this board is hopeful of having a plan in place in about a year, and lay it out to the provincial government and to everybody and say, "This is what we need to do, here's how we need to fund it."

I was very pleased to hear from the chair, who also happens to be a former mayor of Burlington whom we know very well, Rob MacIsaac, that we are going to move fairly quickly. It's our hope, based on that first meeting, to have something back to the province for some of the funding—and probably the federal government as well. What we want to do is piggyback on the great work that's been done. All the meetings will be open and we would hope that all the folks around the table, certainly the MPPs as well as the people who come out, will participate and give us their feedback.

1040

Let me just say this finally: We have a real once-in-a-lifetime opportunity here. I was really pleased that they were looking at planning out for 50 and 100 years. This isn't a short-term gap. Our economic prosperity really depends on having a great transit system, so we would like to participate and be a part of that.

Ms. DiNovo: Thank you. Certainly, the New Democratic Party has a bill before the federal government about a national transit strategy. Just to dream a little bit, if there were a national transit strategy—first of all, do

you think there should be? And then, what might it look like?

Mr. Carr: Yes, I'm hopeful because, having spent time in the federal government, the federal government does have now a big surplus, even with all of the spending—about \$10 billion. My good friend the mayor of Mississauga, Hazel McCallion, I think summed it up in a speech she made recently. She said that the federal government has the money, the provincial government has the authority and the municipal governments have all of the problems. In a nutshell, that really does sum it up. The good news is that the federal government does have money.

I'm of the opinion, and there are two trains of thought—it might be a bit of a long answer. When I was there—as you know, I was with the Progressive-Conservatives provincially, federally with the Liberals—the Liberal government wanted to tie a lot of their funding to specific programs. It was earmarked for child care, it was earmarked for Kyoto and it was earmarked for health care under the accord. I wasn't too concerned with how the money was earmarked, whether it comes in as transit. I was a big, big believer, though, in dealing with the fiscal imbalance, and in fact was one who argued that there was one. Some of the people up there didn't.

What I have argued and pushed forward to our greater Toronto area mayors and chairs is for the federal government to give some of that money back to the provincial government. I must say, I think they did a pretty good job—it wasn't entirely what the province wanted—on the last go-round, helping out a little bit with that. What I've said to people is that if the money comes to the province, then we can go to the province and argue for transit money versus health care and versus education. I'm not as hung up on whether it's tied to a specific program such as a federal transit program, because I believe the people around this table are elected and if you get the money, you can decide that in Ontario you'd like to spend a lot on transit. In Saskatchewan, for example, you might not, because that might not be their priority.

To be fair, I want the federal government to give its rightful share to Ontario and then, because the MPPs are elected, I think you will make the right decision about what you want to do, whether it's to put it into housing or child care. I'm not really hung up on if the federal government puts together a national transit strategy. In fact, I think the Prime Minister came to the FCM and said, "I'm not going to give money to the municipalities, but I'm going to give it to the province." Recently, though, they did change that and gave money for the York subway.

I'm not as concerned about whether it's tied to that or whether it's given sort of carte blanche, as long as they give the money to—I'm not just saying this, because I've been at both levels. If you give the money to the provincial government, I am quite confident that in election campaigns they'll be out there and say, "We should spend this and this party should spend that." And at the end of the day, they're a duly elected government.

But the bottom line is that the federal government does have the money now. If I could sum it up, the fed-

eral government, from my recollection having been there, has more revenue than it needs for the services they provide. The provincial government is starting to get right, but in my opinion it has less money than it needs to provide for health care and education.

Ms. DiNovo: The city, from Mayor Miller's point of view—of course, he's been shortchanged hugely, at least \$71 million worth in this budget, and is calling for an uploading of the downloads. So have we, for quite a while now.

If you're going to get transit happening, and particularly this wonderful dream of light rapid transit, you're going to need money to do it. Isn't this the province's responsibility also?

Mr. Carr: Yes, definitely so, and at the first meeting—as I mentioned, I went, even though I wasn't fully endorsed to the GTTA—I did say that to Mayor Miller. I did endorse his program for getting more money, because I believe the city of Toronto does need some money. We were very helpful. We were pleased that the provincial government in the last budget gave some pooling money. When I was a provincial member, I actually voted against my own government on the downloading and the pooling. So I was pleased that the provincial government is starting to do that, and my feeling is that if the federal government gets some money, they will be able to give it.

Over lunch at the GTTA meeting, I did say to Mayor Miller, "I support you in that." I fully believe that the city of Toronto does require some money. I've said this and I'll say it publicly: Everybody tries to be more efficient. We'll always continue to do that at the federal, municipal, provincial levels. We'll always be trying to do that. But the city of Toronto really does have a financial situation, and I don't care who the mayor is, it's going to be very difficult unless they get the money.

I hope they will come forward with that one cent. In fact, I tried to get a resolution that the GTA mayors and chairs call on the federal government to give us some of that money, but the other members didn't do it.

Ms. DiNovo: Just one last question—I'm very reassured by that, by the way. Thank you. But also, we saw a huge amount of money going into the subway up to York, and then the dream of light rapid transit that some would argue is the way to go rather than extensive subway construction. Where would you fall on that spectrum?

Mr. Carr: What I've said when I've come forward is that I don't come in with any preconceived ideas. We're going to look at everything; I think everything should be on the table. It did come up at that meeting. Again, I'm not telling tales out of school, because it was public. People like Roger Anderson were very strong in pushing for light rapid transit. A lot of the people around there have excellent experience and have been around a lot of years. What they seem to be saying is, "Let's move on with it."

The good news is that regardless of what happens—as all of you know, there's an election coming up in the

fall—regardless of who's in there, I really believe there will be some money put towards it. What we want to do is have a good plan in place. Where I'm particularly pleased is that in Halton—as part of Places to Grow, we're looking at Durable Halton—we are now picking the spots where we're going to put new growth. Where other communities didn't have a chance to do that—for example, Toronto grew and didn't have the money for a lot of the transit—we will have a tremendous opportunity, because we can decide to put our growth in this area or this area and match up transit with what we're doing under Places to Grow. That's one of the reasons I would like to be on there, because we'll be one of the regions that can learn from some of the things that have happened in other regions and say, "We're going to put our growth in this area because it's intensive and we can have a goal." I think that will be something really exciting if we match it up. After the first meeting, I went back to our regional staff and said, "I'd like to have some people from our staff come down and understand what they're doing at the GTTA, because I really believe that we can benefit by matching up our growth to where the transit is going to be over the next few years."

The Chair: Thank you very much. It's time to move on. Ms. Smith?

Ms. Smith: I want to thank you, Mr. Carr, for being here today. I think that you bring to the GTTA an extensive amount of experience, and a varied experience, at all three levels of government which I think will be a real value-add to the authority. I want to thank you for being here and for putting your name forward. We appreciate it.

Mr. Carr: Thank you very much. I appreciate that. That's very kind.

The Chair: Thank you. Any other comments here? Seeing none, Mr. Tascona?

Mr. Tascona: It's good to see you. We saw each other in the Speaker's office, Gary. It's good to see you again.

I know you served with us and the Conservative Party until 2003, then you were elected in Halton as a Liberal member for two years. I've got to ask you this question: Are you carrying a card for either party these days?

Mr. Carr: No, neither federally or provincially. I did of course carry one and I endorsed in 1990, 1995 and 1999 for the Progressive Conservatives because I liked the candidate I was supporting—me. Then federally, I obviously bought a membership in 2004 and supported the 2004 candidate in the last election.

Mr. Tascona: So you haven't bought a card and joined Mr. Turner's—

Mr. Carr: No.

Mr. Tascona: In this particular situation, you've been appointed. This is an area that covers Durham up to York, and it excludes Simcoe county—as you know, I represent that area—which I find puzzling in terms of what they're trying to do, which is to develop an integrated, multi-modal model with respect to public transit, GO Transit and highway. As you may know, they're targeting bringing GO Transit back to the city of

Barrie in the fall of 2007. It certainly is a growth area because the current government left Simcoe county out of the greenbelt and also out of this particular operation.

I think one reason why I did call you—because I know you've got experience in this area and I'm very familiar with you—is that that's something I think is a mistake in terms of having a seamless model. If you're going to have it all the way up from Durham, it should have gone up to Simcoe county. I would give you that thought to maybe explore with the board of directors in terms of thinking about Simcoe county, even though that's not your mandate in terms of the gridlock that is being created, just as you pass Newmarket going up into our area. Certainly the GO Transit system will be a part of that. I know the HOV lanes that they're talking about are only going to go up to Major Mackenzie on Highway 400, but I really think, if you're going to be doing something, you've got to think of the entire area.

1050

You talk about Places to Grow. Barrie is targeted as probably the fastest-growing community in the country, and yet it's not in there. I find that puzzling and I think, as the member, we don't have representation on that municipally. I need to bring that to your attention, that it's got to be something if you're going to think about how we move the traffic. You've got to move the traffic. As you know, people go up north every weekend. I think you're talking in the millions of vehicles a year, and that's not even thought of in terms of how they're going to deal with that.

As you know, when we were in government we had plans for the Highway 400 expansion, which never occurred under this government, and also the 427 being extended, which has gone off the board also in terms of planning.

You've got that experience in terms of the knowledge of where that was going. I just bring that to you because I think it's important for that to be considered.

From what I understand about Halton region, it's not responsible for its own transit; it's the area municipalities that are responsible? Okay. How is that going to be dealt with? There's a possibility, from what I understand, of reducing the number of transit operating authorities in the GTA, moving toward a Halton regional transit system similar to York, Durham, Toronto and Hamilton. What are your thoughts about that? It's obviously going to be complicated.

Mr. Carr: Yes. I'll speak to your first point, and it's a good point. I think we do need to look—I know Barrie is growing. I must say, the people on there at the first meeting—I've been very pleased. Hazel McCallion isn't looking at it just from Mississauga's standpoint—and the regional chair's. From the discussions we had at the first meeting, they are looking at a real system. I say this in all honesty: There are some real straight shooters on there. I know they're going to be looking at it.

Obviously in an area like Barrie, transportation has to be a big issue. If we're going to get people around, and under Places to Grow, if Barrie is going to be a place that

is going to have tremendous growth, we need to ensure that we look at everything there. Obviously, I would do that, look at it. But it isn't just me. I think the other folks on there really aren't looking at it from their own parochial interests. They will look at it from all of the greater Toronto area. So we obviously will be keeping that in mind.

To the second point, one of the reasons we did it and had the regional chair on there is because of the GO situation. We have GO service in Oakville and Burlington. We're working to make sure that we get, for example, more parking for the GO. I came in this morning on the GO. But out in my region, I have to go to Appleby—

Mr. Tascona: You're lucky. I haven't had that opportunity in 12 years.

Mr. Carr: Yes, and do you know what? I must admit it was great. We're doing the Durable Halton. This is my Durable Halton file; I sat and read it. I got a lot of work done. We came in, met some folks. It really is good. One of the problems, though, is that we need something very simple: parking at Oakville and Burlington. If you don't get there very early in the morning, you can't come in. I had to go to Appleby. For those who are watching, you still can get parking at Appleby. So there are some challenges in the areas we have. The reason we've had the chair on there has been because she has been on the GO board, in the case of Joyce Savoline, in the past.

The reason I particularly want to be in there from a Halton standpoint is because of what I mentioned. As part of Places to Grow, as we look at where to grow, we will look at where we need to have service. As you may know, Milton is the fastest-growing in all of Canada, with 71%. We will be extending GO service out there as that population continues to grow. So we want to make sure that we have our voice heard in Halton.

The good news is that I honestly believe this group is going to be able to look at it in the context of putting together a really good plan that they can take back to whoever the minister is a year from now and say, "This is what we'd like to do." I'm hoping that will incorporate not only my region but Durham. As you know, it will be a combination of roads, transit, light rapid, the GO service, everything that we need to make sure that transportation in the greater Toronto area becomes—

Mr. Tascona: Is there any possibility that in that deliberation to develop a plan you'd be considering Simcoe county as part of looking at this? Traffic doesn't stop when you go past Newmarket; it picks up both ways. It's going to be sort of a very myopic type of approach to dealing with transportation issues.

Mr. Carr: And we'd like to look at that. Also, the Hamilton mayor sits, so it goes all the way around the Golden Horseshoe and all the way up. It is going to be all-encompassing, and I assure you that we will bring that about Simcoe, and the concerns of Barrie to the table as well.

Mr. Tascona: Okay. I know you were a chairperson when you were in the federal government. Did you deal,

within your committee or in your time there, in any transportation issues?

Mr. Carr: No. I wasn't a chair of a committee. I was on public accounts.

Mr. Tascona: I guess as chair of Halton, you're familiar with Halton region's Connections report.

Mr. Carr: The transit report?

Mr. Tascona: Yes.

Mr. Carr: Yes.

Mr. Tascona: You're familiar with that. You know what it means and what it represents.

Mr. Carr: It's in my file here for the Durable Halton plan.

Mr. Tascona: Do you agree with what that stands for?

Mr. Carr: What we're doing now as part of the Places to Grow and Durable Halton is reviewing it. Just to give you some idea of what's happening now, under Places to Grow, we've put together about 20 technical papers, we have an interministerial committee, and probably by June of this year we'll be going out to the public and saying, "Here is where we have to grow," and putting together, "Here is how we're going to do our transit."

As part of our technical papers, we are looking at the whole issue of transit. We are reviewing our master plan for transit, as well as national heritage, as part of where to grow our green space and all the things that will be encompassed under Places to Grow. As part of our process, we are reviewing what we are going to be doing in transportation. Again, the bottom line is that what we want to do is match up transportation to the growth, because we're supposed to go from about 390,000—we're probably closer to 400,000—to probably about 800,000 over the next little while. In order to do that, we want to make sure that we have the transit in place, and also, as you know, we have been going after the federal and provincial governments to ensure that the financing is there for the requirements.

Mr. Tascona: Now, the Premier has appointed people; he hasn't really set out how he is going to do this. As chair of Halton, what do you feel is needed, and what type of funding will you be proposing as a member of the board? Because we're talking big money here.

Mr. Carr: Yes, and in speaking with Rob MacIsaac, we are looking at everything. He has said that publicly. We are looking at everything that we do. As a part of it, we're looking at how we're going to fund it over the next little while. For example, we do have responsibilities for roads. We've been very clear in saying that we wanted some of the GTA pooling money, which we got back. We also want the government of the day, whether it's this government or any other—particularly as a run-up to the election campaign—to take a look at development charges again and see what we will be doing. Particularly, what we want to have them look at is—as you know, they look at past years' averages. Our friends in Durham, for example, have taken over transit. Roger Anderson—again, I'm not telling tales out of school—has said that when we look at that, we can't look at the

past, because they didn't have very much in terms of transit in the past. We need to look to the future. How are we going to fund this? Quite frankly, I think that will be the biggest challenge for this board. I think we can put a good plan together, work with people, work with the public, and come together with a real plan about what you should do.

Where the pavement will hit the road will be how it will be funded, how that will be done. That will be a responsibility that will fall back on your shoulders as provincial members and also, I believe, the federal government, because the amount that your talking about, I don't see the provincial government alone—whether it's getting money through the fiscal imbalance or whether they've put a national transit strategy together, I don't think you can do it alone based on the financial situation of the province. It will need help from the federal government. That's why I'm saying—where I am pleased—that the federal government is now out of a deficit position. I believe they can give you some money. I think you had an all-party resolution asking for money from the federal government in a non-partisan way. That was good. You all got some of the fiscal imbalance money back. That will be our challenge, and your challenge I believe will be that it will still need to go to education, it will still need to go to health care, it will need to go to the environment.

But what I've said is that if we put a good plan together, I'm quite prepared to line up with the health care people, the environment people and the education people and say, "Here's where we think you should spend X amount of money," because I really believe—I firmly believe this—that what we're doing with transportation is a real economic driver. If we do not get transit solved, and goods and people can't move around, our great prosperity—and we've been very blessed in this region, going all the way out even to Gerry's area around Hamilton. It's one of the best economies, with one of the highest standards of living in the world. One of the reasons is because we've had a great transportation system. We can't lose this opportunity now to build for the future.

Again, I have been to the one meeting. I think we've got some great people around the table to make those decisions. Then I think we'll be coming back to you and saying, "Here's our plan to finance it." The folks around this table, if you're all here then, which I'm sure you all will be, will have some really tough decisions to make on how to fund it.

The Chair: This concludes the time that's been allocated. Thank you very much for coming. It's good to see you.

I now ask members of the committee to deal with concurrences. We will now consider the intended appointment of Ken Jepson, intended appointee as member, Landlord and Tenant Board.

Ms. Smith: I move concurrence of the appointment of Ken Jepson as a member of the Landlord and Tenant Board.

The Chair: Concurrence in the appointment has been moved by Ms. Smith. Any discussion? If not, all in favour? No one opposed. The motion is carried.

We will now consider the intended appointment of Gary Carr, intended appointee as member, Greater Toronto Transportation Authority board of directors.

Ms. Smith: I move the appointment of Gary Carr as a member of the Greater Toronto Transportation Authority.

The Chair: Thank you. Concurrence in the appointment has been moved by Ms. Smith. Any discussion? Seeing none, all in favour? The motion is carried.

That concludes our business on intended appointments. Congratulations to both intended appointees. Thank you very much.

SUBCOMMITTEE REPORT

The Chair: We will now revert to agenda item number 5. As you will note from your agenda, this is the report of the subcommittee on report writing.

Ms. Smith: I move acceptance of the following report of the subcommittee:

Your subcommittee on committee business met on Tuesday, March 20, and Tuesday, March 27, 2007, to consider the method of proceeding on report writing and agreed to the following:

(1) That report writing on the three agencies be conducted in the following order:

(i) Workplace Safety and Insurance Board (WSIB);

(ii) Health Professions Appeal and Review Board (HPARB); and

(iii) Ontario Power Generation (OPG).

(2) That the research officers prepare a draft report on the WSIB and that the draft report contain a condensed version of the WSIB background material, a summary of the agency presentation, followed by a summary of stakeholder presentations, followed by the list of stakeholder recommendations appended to the end of the draft report.

(3) That the committee commence report writing on the WSIB following the intended appointments on April 4, 2007.

(4) That the research officers prepare a glossary explanation of WSIB terminology mentioned in the recommendations listed in the summary of public hearings.

The Chair: Any further comments? I'd ask that the subcommittee report be adopted. All those in favour? Thank you.

We will now move into closed session in order to begin our deliberations on report writing.

The committee continued in closed session at 1104.

CONTENTS

Wednesday 4 April 2007

Subcommittee reports	A-569, A-579
Intended appointments	
Mr. Ken Jepson	A-569
Mr. Gary Carr	A-574

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A-33

A-33

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Assemblée législative de l'Ontario

Deuxième session, 38^e législature



Official Report of Debates (Hansard)

Wednesday 16 May 2007

Journal des débats (Hansard)

Mercredi 16 mai 2007

**Standing committee on
government agencies**

Intended appointments

**Comité permanent des
organismes gouvernementaux**

Nominations prévues

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

Wednesday 16 May 2007

Mercredi 16 mai 2007

The committee met at 1003 in room 151.

SUBCOMMITTEE REPORT

The Chair (Mrs. Julia Munro): I'd like to begin our proceedings this morning. Our first order of business is the report of the subcommittee on committee business dated Thursday, May 10. I need someone to move its adoption.

Mr. Joseph N. Tascona (Barrie-Simcoe-Bradford): I'll move it. MPP Joe Tascona will move whatever we need moved.

The Chair: Is there any discussion? If not, all in favour? The motion is carried.

INTENDED APPOINTMENTS

JOHN BALD

Review of intended appointment, selected by official opposition party: John Bald, intended appointee as member, council of the College of Nurses of Ontario.

The Chair: We will now move to the appointment review. Our interview today is with Mr. John Bald, intended appointee as member of the council of the College of Nurses of Ontario. Mr. Bald, please come forward. Welcome to the committee. As you may know, you have an opportunity, should you choose to do so, to make an initial statement, and subsequent to that, there will be questions from members of the committee. Today we will be commencing the questioning with the official opposition. Please go forward.

Mr. John Bald: Thank you very much for inviting me to appear before your committee in relation to this appointment. Most of my career has been devoted to the secondary school education system in the province. I worked for the Hamilton Board of Education and my career encompassed three schools, with the last 17 years as business director at Barton Secondary School in Hamilton. My undergraduate degree from Western is in English, but I completed post-grad studies at the University of Toronto, McMaster and Western. In addition to being director of business education, I was also director of adult education at Barton for three years. At its peak, we had 165 adult students in our program and it was extremely fulfilling working with adults. As well as curricular work, I was a coach and adviser to the students for over 25 years—student council, things like that.

When I retired from education, I was encouraged to consider municipal politics. I ran successfully in the town of Lincoln and was an alderman for six years, with the last three being deputy mayor. I was a member of many committees during my six years, but probably the most exciting was the West Lincoln Memorial Hospital board. I had the pleasure of serving six years on the board, as well as being on the governance committee and the leadership and partnership committee of the hospital. I worked very closely with administration and the medical and nursing staffs. West Lincoln has been on a building drive as well, and I was proud to be part of the board that helped to steer toward the completion of a new hospital.

Throughout my career I have held many leadership positions and I've developed skills that would lend themselves well to this position as a board member of the council of the College of Nurses. I'm excited about the opportunity to serve, and I hope you will consider my application. Thank you.

The Chair: Thank you very much for your comments. Each party will have 10 minutes allotted for questions. As I mentioned, we'll go in rotation. We will deduct the few minutes that you took from the opportunity for the government party. We'll begin then with Mr. Tascona.

Mr. Tascona: Thank you for coming here today, Mr. Bald.

Mr. Bald: Thank you.

Mr. Tascona: This position, I understand, is a part-time position on the council of the College of Nurses of Ontario. Do you know what the term will be for this position?

Mr. Bald: I think it's three years.

Mr. Tascona: Three years?

Mr. Bald: Yes.

Mr. Tascona: And the remuneration, is it—

Mr. Bald: It's a per diem of, I think, \$150, according to the material I downloaded.

Mr. Tascona: Were you contacted by any person in particular to fill this position?

Mr. Bald: Mr. Smitherman's office called me and suggested that I consider applying for it; a girl named Donna, and that's all I know there.

Mr. Tascona: Okay. Do you have a current membership in any political party?

Mr. Bald: No. During the last federal election, the Liberal candidate in our riding asked me to support her in her nomination procedure, and I did. I took out a

membership in the federal Liberal Party. When she got the nomination, she then asked if I would join her team to write policy for that election, and I did. But when the election occurred—as soon as the election ended, I resigned my membership. I know some people might not agree with me, but being a municipal politician, I really, honestly feel municipal politicians should be non-partisan. I didn't want to belong to any one party, so I did resign at that time. But I was a member of the Liberal Party for about six months.

Mr. Tascona: Okay. I have an article from the St. Catharines Standard here that indicates your spouse has worked on the campaign team of a number of Liberal candidates in most of the major elections over the last number of years. A quote from this article states, "Her Liberal ties go way back," and "The Liberal Party espouses all the values I hold dear. I gravitate toward Liberals. They're my kind of people." So your wife, I take it, is quite involved in the Liberal Party.

Mr. Bald: Yes. This is my second wife. My late wife passed away six years ago, but my wife at this time is from Thunder Bay, where she worked for the federal Liberal MP there, Stan Dromisky, in his office as part of his staff—administrative assistant—for six years. So she was obviously very familiar with what was going on, at least in the Thunder Bay area and in the federal sense. She was a federal Liberal at that time. She no longer has a membership in the Liberal Party either.

Mr. Tascona: This is Noreen Bald?

Mr. Bald: Yes, right.

Mr. Tascona: Now, the position you're going to hold is a public member of the council of the College of Nurses, which is intended to provide a non-professional citizen's perspective, and the decisions are to be made in the public interest. You seem qualified for the position, sir. Are you going to make sure that your Liberal ties are not going to impact your decision-making on this, seeing that you were contacted by Minister Smitherman?

1010

Mr. Bald: Absolutely. I've always been a team player—and I hate using that phrase; I apologize. It's such a cliché. But I've always been a team player. I'm a hard worker and I—I hate to use the word "guarantee"; of course, I can't say that word. But yes, I would be able to perform my functions without allowing that at all to colour the way I think.

Mr. Tascona: Do you know why Minister Smitherman contacted you in particular?

Mr. Bald: I applied for the LHIN position which came available in the Niagara area. Jennifer Mossop asked me to apply for that a number of months ago. After I got out of politics last fall, she came to me and said, "Listen, we don't want to lose you from public service. Have you considered this?" So I applied for the LHIN position. I didn't get it, and I thought, "Okay, that should be about it then. I'll move on to more tennis. But then Mr. Smitherman's office called me and said, "Would you be interested in considering this?" So I downloaded all the information I could, and after having the experience I had

on the West Lincoln hospital board and working just on the fringes—but after I read what the college does and what their mandate is, I became quite excited about it and thought, yes, I would really like to take a shot at this; this sounds really challenging.

Mr. Tascona: Is Jennifer Mossop your MPP?

Mr. Bald: No.

Mr. Tascona: Who is your MPP?

Mr. Bald: Tim Hudak.

Mr. Tascona: Tim Hudak, okay.

Mr. Bald: I worked with Jennifer because I was on the hospital board and we were involved with the funding for the new hospital. The hospital is in her riding, so she would come to many meetings, and I got to know her because I was on the governance committee and there were only six of us, and we had many, many meetings. She talked about the various strategies that she would have to go through in approaching Minister Caplan and things like that, so I just got to know her.

Mr. Tascona: Okay. I've got an article that your wife, Noreen, wrote to the editor of Niagara This Week—it's dated December 1, 2006—where she wrote about Mr. Hudak, saying that by endorsing a municipal candidate, "Mr. Hudak has forever changed the landscape of municipal politics in Lincoln. We will no longer be voting for friends, neighbours or the best person for the job. We will now be forced to vote along party lines." As you know, MPP Jennifer Mossop endorsed a Stoney Creek municipal candidate for ward 9 in the last election, Phil Bruckler. In this context, did Ms. Mossop forever change the landscape of municipal politics?

Mr. Bald: Well, my wife's letter was in response to a previous letter from the chair of Mr. Hudak's campaign. He had made some comments that she was offended by. I don't endorse what Ms. Mossop did either. I really, sincerely think that municipal politics should be non-partisan. Sorry, but I really don't think any party should be involved in it. It's one area where it's just so open to claims of favouritism and so forth. As Cicero said, not only must justice be done, it must appear to be done. In the local political situation, you're opening so many cans of worms when you get into that: "His street was plowed before mine." "That's because he's a Liberal." "Their trees got trimmed before mine." "That's because he's a Conservative"—that kind of thing. I really think we should try to avoid that, so I don't endorse what Ms. Mossop did, nor do I endorse what Mr. Hudak did, or anybody. I really think it would be a good idea to stay out of that, in my opinion.

Mr. Tascona: Okay. Currently, are you retired from the teaching profession?

Mr. Bald: Yes.

Mr. Tascona: Are you doing anything else besides that, in terms of—

Mr. Bald: I was in municipal politics until last November. Now I carve song birds and play some tennis.

Mr. Tascona: Good for you. What do you want to get out of this position, in terms of what you want to contribute to this College of Nurses position?

Mr. Bald: Having downloaded and read so much of what they do, I really would like to be part of helping to steer in the right direction, if I may be so bold. We've obviously got a situation in the province, and we all know this, where environment and health are the two things that concern people more than anything. With health, most people in this room were baby-boomers, or pretty close to it, and our hospitals are in a period of—they're going to have to be ready for the baby-boomers, shall we say. I think the nursing profession, being on the front line—we've got to help them; we've got to be there for them. The Liberal government, I know, has appointed 8,000 nurses, according to what I read in the paper, since their mandate began, and we need more. We really do need more.

Mr. Tascona: There was a comment yesterday about people who are on the front line, that if someone dies—I'm talking about nurses in particular, the front-line health care workers—their family should receive death benefits because of the fact that they work in the health care profession. I don't know if you're aware of that, but it was raised yesterday.

Mr. Bald: I heard it on the radio. It was over the flu epidemic, wasn't it?

Mr. Tascona: Yes. What do you think about that?

Mr. Bald: Boy, that's a tough one. I'd want to know a little bit more about that one. That could be a real problem. But I'd like to know more about it.

Mr. Tascona: Okay. Those are all of my questions.

The Chair: We'll move on to Ms. DiNovo.

Ms. Cheri DiNovo (Parkdale-High Park): Welcome, Mr. Bald. Last week was Nursing Week and I went to St. Joseph's Hospital, which is in my riding. I did a tour there and I heard from many of the nurses in many of the departments about their concerns. Front and centre among those concerns were being overworked and understaffed. I heard this really across the board. I'm sure it's reiterated in hospitals across this province, and I just wondered if you could comment a little bit about that reality.

Mr. Bald: On Sunday, I spent some time with a friend of mine who's a nurse, and his wife is also a nurse, both in the Hamilton system and both for over 15 years. We chatted about his day and he said that every day last week—Nursing Week—there were at least two people who phoned in sick on his shift; one day there were three. And he said, "That means we pick it up, and that means we have more patients. It's a grind." He said, "One of the things that goes"—and he was upset about it—"unfortunately, is the education part of it, because you just don't have time on your break or whatever it might be to attend seminars." He said that there have been more nurses that have come along in the last few years and that's great, but we need more. I concur with him. From what I hear, talking not just to him but to other nurses and people, and reading the papers, we really need to bulk it up.

That's such a big question, though, because coming out of the high school system—you've got to attract kids

coming out of school to look at the nursing profession and think, "That's the way I want to go." I taught grade 13 for years and counselled and dealt with kids, and nursing was not one of the things that was at the top of the list. The general consensus among most kids was, "Man, do they ever work so hard—12-hour shifts and working hard." It's something that we have to work on. It needs some public relations, and if I could ever help with something like that, I'd love to do it.

Ms. DiNovo: Also, in long-term care, we just had a bill pass, Bill 140, and there was a great deal of discussion about the number of hours per patient. Of course, this all comes back to funding. So I'm wondering if you could comment on, if we need more nurses in long-term care, if we need more nurses in our hospital system and presumably also in community health clinics, where's the money going to come from? How do we fund this?

Mr. Bald: You're talking to an ex-municipal politician. I don't know. It's one of those things that I just don't know enough about at this time. That's in your bailiwick. You've got to find the money for that. Part of me envies you and another part of me just says, "Good luck." The money has to be there—we know that—so it's just a matter of finding it.

Ms. DiNovo: Out of that discussion have come some real critiques of the health care system in Ontario—the nurses' association has taken part in these discussions—the fact that we're moving to a two-tier system, that we're moving away from universal access to our medicare system. One of their bones of contention is the P3 hospitals, the public-private hospitals. They're already incurring huge cost overruns. I wanted you to maybe discuss this government's move to a two-tier system.

Mr. Bald: I can't. I really don't know enough about it at this time. I hope it doesn't happen. I'm for universal health care and I'm hoping that we're not going in that direction. But that's about all I can say because I really don't know enough about the P3s, other than what I read in the Star, like we all do.

Ms. DiNovo: Certainly, the nurses will get you up to speed very quickly about that, I'm sure.

Mr. Bald: I'm sure they will.

Ms. DiNovo: Speaking about the Ontario Nurses' Association, they've also been rallying here earlier this month for Bill 30, which is our own health critic Shelley Martel's bill, the Safe Needles Save Lives Act. I'm wondering if you could comment about that. The Ontario Nurses' Association is in favour of this act. This is to replace the needles that we have at really a few cents per needle. This prevents injury by needle pricking.

Mr. Bald: Oh, the needle—

Ms. DiNovo: Exactly, yes.

Mr. Bald: Good idea. Excellent idea.

Ms. DiNovo: Okay. So you would support the passing of that bill?

1020

Mr. Bald: I remember how when I was on the hospital board you'd hear about somebody in the laundry facility at the hospital who was just rolling up some

sheets and got stuck with a needle, and you'd think, "Oh, man, that's awful." As careful as the nurses and the RPNs had been, it happens, and we want to avoid that. If we can avoid it through this bill or some other means, let's investigate, because that was a terrible thing.

Ms. DiNovo: Maybe you could phone Donna in Mr. Smitherman's office and suggest to her that this bill be passed.

Bill 171 is another piece of legislation that has also come before this House recently. One of the concerns when it was first written, a real oversight, was the lack of social workers in it, but the nursing association had some concerns and amendments. Could you say something about Bill 171?

Mr. Bald: Is that the one about nursing practitioners?

Ms. DiNovo: Yes.

Mr. Bald: I don't know enough about it, other than what I downloaded. I'm certainly in favour of nursing practitioners; I think that's a great idea. I couldn't comment on the suggestion about expanding to various areas because I just don't know enough.

Ms. DiNovo: Again, back to the shortage of nurses that we have: We're losing nurses, of course, and we're not attracting them from other countries or getting them up to speed as quickly as we'd like to see. I actually had a forum for internationally trained health care professionals in my riding recently. We had the college come out to speak to this, and they admitted that there was a problem in getting internationally trained nurses on the floors of our hospitals as quickly as we could and as well as we would like to. Do you have any comments about internationally trained nursing staff?

Mr. Bald: Again, I hate to cop out, but I don't know enough about it. It certainly is intriguing if that is going to help to alleviate the problem.

My late wife was in the hospital system for over 20 years. She had seven types of cancer and so forth over 21 years. I've been in almost every hospital in southern Ontario, from Niagara Falls to Mount Sinai, and every hospital in Hamilton. I have nothing but the greatest praise for our hospital system. I think they're just marvellous. I think they're working hard. I think there are some wrinkles that we have to help them straighten out, and if that is one of the ways of doing it, then so be it. Let's go for it. I've watched it, and it is quite a system. I hear people put it down, and I think they're wrong.

Ms. DiNovo: What it needs is a lot more funding.

Mr. Bald: It needs some help. We've all sat in emergency rooms for long afternoons, but that's just the way it is right now, and hopefully that can be fixed. I'd love to be part of that.

Ms. DiNovo: That's it for me.

Ms. Monique M. Smith (Nipissing): I can't help but feel compelled to straighten out some of the misleading

information that Ms. DiNovo was sharing with the committee this morning. We don't endorse a two-tier health care system, and I know you know that, and in no way are our hospital projects that we're moving forward with private hospitals.

The North Bay hospital—I represent North Bay—is going forward. I spent two hours in the old North Bay hospital on Friday morning with our nurses celebrating Nursing Week, and I can only say that the RNAO representatives I met and the nurses in the North Bay hospital are pretty darned excited that 37 and a half months from now we will be in a new hospital.

I know that you're working toward a new hospital in your community, as well. It's an exciting time as we rebuild the health system.

I really want to just thank you for coming. I think that you are doing a great community service.

I just wanted to clarify: You were encouraged to apply by a number of people for the LHIN position and that didn't come together.

Mr. Bald: Right.

Ms. Smith: So you thought everything had kind of gone away, and then you were just approached. Do you think it was because your application was still at the ministry?

Mr. Bald: I really don't know. I know I had seen Jennifer and she said, "Don't go away," so I said all right. I went on the site—it's a beautiful site—and downloaded a lot of things and looked at them. After I had the phone call from Minister Smitherman's office, I immediately looked at the College of Nurses and went from there.

Ms. Smith: We're thrilled that you're excited about serving. I think you're going to make a great contribution. We really appreciate your service to our community. Thanks.

The Chair: That concludes our time. You may step down. Thank you for appearing here today.

We will now deal with concurrences. We will now consider the intended appointment of John Bald, intended appointee as member, council of the College of Nurses of Ontario.

Ms. Smith: I move concurrence of John Bald as appointee to the council of the College of Nurses of Ontario.

The Chair: Concurrence in the appointment has been moved by Ms. Smith. Any discussion? If not, all in favour? Opposed? The motion is carried.

That concludes our business on intended appointments. Thank you very much for your participation.

We will now revert to agenda item number 3 in camera.

The committee continued in closed session at 1025.

CONTENTS

Wednesday 16 May 2007

Subcommittee report	A-581
Intended appointments	
Mr. John Bald	A-581

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